S. HRG. 103–889, VOL. XXI

RESOLUTION TRUST CORPORATION ("RTC") DOCUMENT PRODUCTION

HEARING

BEFORE THE

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS UNITED STATES SENATE

ONE HUNDRED THIRD CONGRESS

SECOND SESSION

VOLUME XXI

RESOLUTION TRUST CORPORATION ("RTC") DOCUMENT PRODUCTION IN RESPONSE TO S. RES. 229

Printed for the use of the Committee on Banking, Housing, and Urban Affairs

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Y4.B 22/3: S.HRG.103-8
v. 21

U.S. GOVERNMENT PRINTING OFFICE
89–184 CC WASHINGTON : 1994

For sale by the U.S. Government Printing Office
Superintendent of Documents, Congressional Sales Office, Washington, DC 20402
ISBN 0-16-046976-7

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6661

9792

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

FAX COVER SHEET

DATE: 5-9-94

TO: Ken Schmalzbach

FROM: Donald L. Kasholt
OFFICE OF ETHICS

FAX NUMBER: (202) 416-2481

PAGES TO FOLLOW: 1

If all pages of this transmission are not received or if you have any problems receiving this document, please call Peggie Gervase, (202) 416-2080.

COMMENTS: Ltr. to Mummert dated 5-4-94

Notice: If the reader of this message is not the intended recipient, please be advised that any dissemination, distribution, or copying of this communication is prohibited. If you have received this communication in error, please notify us immediately by calling the sender shown above. We would also appreciate your returning the original message to us at the address listed below via U.S. Mail. Thank you for your cooperation.

801 17th Street NW Washington, D.C. 20434

```
         TEL:                                          May 09'94   13:53

            Transmit Confirmation Report

No.            :  002
Receiver       :  TREASURY KEN
Transmitter    :
Date           :     May 09'94   13:53
Time           :  00'58
Mode           :     Norm
Pages          :  02
Result         :  OK
```

RT-13327
cc: Mr. Altman
Standard Dist
Mr. Adair
Mr. Kusinski
Mr. Foreman
Mr. Schmalzbach
✓Mr. Rosholt
Mr. Binkley

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

May 4, 1994

Ms. Jenny Mummert
Administrative Aide
Subcommittee on Treasury -
Postal Service and General Oversight
Committee on Appropriations
House of Representatives
Washington, D.C. 20515

Dear Ms. Mummert:

On March 8, 1994, Secretary Bentsen appeared before the Subcommittee at a hearing on the Department of the Treasury's Fiscal Year 1995 budget request. As a result of that hearing, Representative Wolf submitted written questions to be answered for the record of the hearing.

As a partial response to question three from Representative Wolf and as requested by the Department of the Treasury, the Resolution Trust Corporation is pleased to release the enclosed memorandum dated February 18, 1994, from our Designated Agency Ethics Official, Mr. Arthur J. Kusinski, to former RTC Interim CEO Roger C. Altman regarding Madison Guaranty matters.

We hope this information is of assistance to you. If you have any questions, please let me know.

Sincerely,

Peter E. Knight
Director
Office of Governmental Relations
(202) 416-7314

Enclosure

cc: Honorable Roger C. Altman

801 17th Street, N.W. Washington, D.C. 20434

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

February 18, 1994

MEMORANDUM TO: Roger G. Altman
Interim Chief Executive Officer

FROM: Arthur J. Kusinski Arthur J. Kusinski
Ethics Officer
and
Designated Agency Ethics Official

SUBJECT: RTC Madison Guaranty Matters

SUMMARY:

You have sought advice from your RTC ethics counselor as to whether your longstanding personal relationship with the President gives rise to a legal obligation to recuse yourself from matters that may come before the RTC that may affect financial interests of the President or his family. I have carefully considered your inquiry, and conclude that the decision whether to participate in such matters is not mandated by ethics statues or regulations. Thus, you have the discretion to participate or not, as you determine to be appropriate. I note, however, that it is not necessary for you to decide whether to participate in any particular matter until such time as the matter comes before you.

DISCUSSION:

The only ethics statute or regulation which is relevant to your request for advice is 5 CFR 2635.502 ("section 502"), which is entitled "Personal and Business Relationships". That provision encourages an official who has a relationship with a person who is a party to a Government matter in which the official is called upon to act, and is concerned that the relationship would raise an issue of impartiality, to contact the agency's ethics officials. You have done so.

Ethics officials then must determine whether your relationship with the President is a "covered relationship" as that term is defined by 5 CFR 2635.502(b)(1). Officials have a "covered relationship" with: (1) a "person" with whom the official has or seeks a business, contractual or other financial relationship; (2) a member of their household or a relative with whom they have a close personal relationship; (3) a "person" with whom certain of the

official's relatives has or seeks employment or similar relationships; (4) a "person" for whom the official has served as an employee, attorney or in a similar capacity within the last year; and (5) an organization other than a political party in which the official is an active participant such as a chairman of one of the organization's committees. For purposes of these regulations, the term "person" does not include the Federal Government and/or officials of the Federal Government acting in their official capacities. 5 CFR 2635.102(k). You clearly have none of these relationships with the President, and therefore you are not in a "covered relationship" with him. As the section 502 regulation operates, only "covered relationships" standing alone raise questions of appearances of loss of impartiality as a statutory or regulatory matter.

In considering your request for advice, I am aware that your only relationship with the President is one that would be fairly characterized as a longstanding personal friendship. However, you and the President do not now and have not in the past participated together in business or financial transactions[1]. While a personal relationship such as yours with the President is a factor to be considered (along with others) in deciding whether the circumstances raise a question as to your impartiality in a matter that may affect the President's interests, standing alone it is not determinative. In its Preamble to the publication of the final Executive branch standards of conduct regulations, OGE specifically considered whether a "close personal friendship," standing alone, should be considered a "covered relationship," and decided that it should not. 57 FR 35026 (1993).

I have consulted with the Office of Government Ethics concerning this issue. OGE believes that your decision, as to whether to participate in an RTC matter that may affect a financial interest of the President, is not a matter that is mandated by ethics statutes and regulations. OGE also believes that the ethics advice I provided to you in these circumstances is within the discretion

of the ethics official of the affected agency; and that the decision whether to participate in RTC matters that may involve the interests of the President is within your discretion. I have also consulted with the Designated Agency Ethics Official at the Department of the Treasury who concurs with me in this analysis.

---

[1] Title 18 U.S. Code, section 208 prevents an official from participating for the Government in a matter affecting a financial interest of the official or certain other persons and organizations. You have neither a personal financial interest in the matters before the RTC nor a relationship with the President (who may have such an interest) of the kind that is relevant for purposes of 18 U.S.C. 208. Section 208 would impute to you the financial interest of the President only if he were your general partner or a person with whom you were negotiating or had an arrangement for prospective employment. Thus, that provision does not create any bar to your participation in the RTC's decisions concerning those matters.

In summary, it is my opinion that there is no legal reason to preclude you from acting on such matters. Regardless of whether you decide to recuse yourself, there will be no legal objection to that decision.

RECOMMENDATION:

In deciding whether to recuse yourself, I recommend that you consider certain factors in making your decision. Certainly, you should take into consideration your longstanding personal relationship with the President. You should also consider the nature and importance of your role as the RTC's CEO in the Madison matter; the sensitivity of this matter; the difficulty in assigning this matter to another individual at the RTC; the likelihood that a reasonable person with full knowledge of the facts would question your impartiality; and the effect that this matter may have upon the President's financial interests. This listing is not exclusive, and you may have other factors which you may want to consider as well. That is within your discretion. In considering these factors, I of course stand ready to advise you if you should so desire.

Finally, the regulations do not require government officials to recuse themselves from actions which are not specifically before them. Therefore, you may wish to defer a decision on your recusal until such time as a particular aspect of the Madison Guaranty matter is presented to you for consideration or decision.[2]

I understand that the statute of limitations may be extended.

To: Carol Obrien@OGR@RTCDC
Cc: ajk
E :
From: Donald L. Rosholt@Ethics@RTCDC
Subject: re: Altman recusal
Date: Wednesday, May 4, 1994 13:54:09 EDT
Attach:
Certify: N
Forwarded by:

I called Treasury and they said their package just went up to the hill.

Pls copy us on the final letter that Peter signs and you send out.

Their document went out under a cover to Ms. Mummert dated 5/3/94. I will bring you a copy as you requested.

To: Donald L. Rosholt@Ethics@RTCDC
Cc:
Bcc:
From: Carol Obrien@OGR@RTCDC
Subject: Altman recusal
Date: Wednesday, May 4, 1994 13:46:44 EDT
Attach:
Certify: N
Forwarded by:

Just a reminder that the letter to the Subcommittee on Altman recusal transmitting Mr. Kusinski's memo of February 18, is still awaiting your instructions on when this should be sent.

DEPARTMENT OF THE TREASURY

Date: 5/3/94

TO: Jenny Mummert
H-164

SUBJECT: Edited Transcripts

Attached is an edited transcript for the Secretary's March 8 hearing before the Subcommittee.

Please note the following things regarding the attached transcript:

- Responses to four questions by Representative Wolf will be provided as soon as possible.

Please let me know if this office can be of any further assistance.

Anne
Anne Porowski
Office of Budget
622-2245

To: Donald L. Rosholt@Ethics@RTCDC
Cc:
Bcc:
From: Carol Obrien@OGR@RTCDC
Subject: re: Altman recusal
Date: Friday, April 29, 1994 7:47:23 EDT
Attach:
Certify: N
Forwarded by:

Thanks, I'm waiting to hear from you. If Treasury sent a cover letter, ask if you can have a copy.

To: Carol Obrien@OGR@RTCDC
Cc:
B :
From: Donald L. Rosholt@Ethics@RTCDC
Subject: re: Altman recusal
Date: Friday, April 29, 1994 7:42:34 EDT
Attach:
Certify: N
Forwarded by:

I have a call into them but they haven't returned it yet.

9805

To: Donald L. Rosholt@Ethics@RTCDC
Cc:
Bcc:
From: Carol Obrien@OGR@RTCDC
Subject: re: Altman recusal
Date: Thursday, April 28, 1994 20:07:03 EDT
Attach:
Certify: N
Forwarded by:

Has Treasury sent it's letter to the Hill yet?????

To: Donald L. Rosholt@Ethics@RTCDC
Cc:
Bcc:
From: J. Ronald Farrell@Ethics@RTCDC
Subject: Call from Ken Schmalzbach
Date: Thursday, April 28, 1994 18:04:30 EDT
Attach:
Certify: N
Forwarded by:

Don, I took a call for you from Ken Schmalzbach who indicated he was returning your previous call. Upon learning that you were gone for the day, he asked for Art who had just left.

Ken requested that you call him back tomorrow morning at 622-0450.

To: Donald L. Rosholt@Ethics@RTCDC,Carol Obrien@OGR@RTCDC
William C. Collishaw@Legal-ra@RTCDC
Bcc:
From: John C. Binkley@Legal-ra@RTCDC
Subject: re: Altman recusal
Date: Tuesday, April 26, 1994 17:45:44 EDT
Attach:
Certify: Y
Forwarded by:

Only comment is that the last sentence which refers to Trewasury need not be part of our letter. All we need to say is treasury asked us to release and here it is.

jack

To: Carol Obrien@OGR@RTCDC,John C. Binkley@Legal-ra@RTCDC
Cc:
[illegible]:
From: Donald L. Rosholt@Ethics@RTCDC
Subject: Altman recusal
Date: Tuesday, April 26, 1994 13:56:24 EDT
Attach: P:\PUBLIC\WP\EEP\CEO\WOLF
Certify: N
Forwarded by:

Attached is the most recent version of the cover memo to the House Appropriations Committee transmitting a copy of a memo from Art to Altman regarding his recusal from Madison matters.

They requested that it not be sent until they send their response as it wouldn't make alot of sence.

Carol, Jack Binkley may have some comments and should approve of it from Legal.

To: Peter E. Knight@OGR@RTCDC
Cc:
Bcc:
From: Donald L. Rosholt@Ethics@RTCDC
Subject: Altman
Date: Tuesday, April 26, 1994 13:50:03 EDT
Attach: P:\PUBLIC\WP\EEP\CEO\WOLF
Certify: N
Forwarded by:

I forgot to attach the document for you.

To: Peter E. Knight@OGR@RTCDC
John C. Binkley@Legal-ra@RTCDC
C
Bcc:
From: Donald L. Rosholt@Ethics@RTCDC
Subject: Altman recusal
Date: Tuesday, April 26, 1994 13:43:02 EDT
Attach:
Certify: N
Forwarded by:

I just finished talking with the Department of Treasury on the memo I gave you last night. They had some technical corrections. They also asked that the last line referrencing confidentiality be deleted. They also asked that it not be sent until they send their document and theuy would let me know when that is to be done.

TO Don

DATE 4/26 TIME 12:48

PHONE CALLS

"WHILE OUT" RECORD

M. Ken Schmalzbach

OF

PHONE 622-0450
AREA CODE NUMBER EXTENSION

TELEPHONED	☑	PLEASE CALL	☑
CALLED TO SEE YOU	☐	RETURNED CALL	☐
WILL CALL AGAIN	☐	URGENT	☐

MESSAGE No problem in
sending Ethics opinion
Strong opinion that
it be [illegible] conf.
Don't send until
Treasury sends them

TAKEN BY:

Deputy Secretary Altman
Second to last

To: Peter E. Knight@OGR@RTCDC
John C. Binkley@Legal-ra@RTCDC
Cc: ajk
E :
From: Donald L. Rosholt@Ethics@RTCDC
Subject: Altman recusal
Date: Tuesday, April 26, 1994 8:06:15 EDT
Attach: P:\PUBLIC\WP\EEP\CEO\WOLF
Certify: N
Forwarded by:

The attached document includes the revision I mentioned in my e-mail last night resulting from the change of the addressee. The letter when originally drafted was addressed to Congressman Wolf but was changed to be addressed to a Committee staff member. Unless I hear from you I will presume that our office has completed its responsibility in this matter. Thanks for your help in seeing that this request is completed.

April 25, 1994

Jenny Mummert, (202) 225-5834
Subcommittee on Treasury, Postal Service,
and General Governmental Appropriations
of the House Appropriations Committee
United States House of Representatives
U.S. Capitol Building, Rm-164
Washington, D.C. 20515

Dear Ms. Mummert:

This letter is in response to question 3 of Congressman Wolf's list of questions submitted by the Committee to the Department of the Treasury after its March 8, 1994 hearing on the Treasury's FY '95 budget request. The Department of the Treasury has asked the Resolution Trust Corporation to release the enclosed copy of a memorandum, dated February 18, 1994, from our Designated Agency Ethics Official, Arthur J. Kusinski, to Mr. Altman regarding Mr. Altman's recusal from RTC Madison Guaranty matters. It is our understanding that this document, from Mr. Kusinski to Mr. Altman, was also included as an attachment to a Treasury Department document, dated February 23, 1994, from Dennis I. Foreman, Deputy General Counsel and Designated Agency Ethics Official, Department of Treasury, to Deputy Secretary Altman.

Sincerely,

Peter E. Knight
Director
Office of Governmental Relations
(202) 416-2116

cc: Roger C. Altman
Ellen B. Kulka
Arthur J. Kusinski
Dennis I. Foreman

April 25, 1994

Jenny Mummert, (202) 225-5834
Subcommittee on Treasury, Postal Service,
and General Governmental Appropriations
of the House Appropriations Committee
United States House of Representatives
U.S. Capitol Building, Rm-164
Washington, D.C. 20515

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This document is being provided to you with the understanding that it will remain confidential.

Sincerely,

Peter E. Knight
Director
Office of Governmental Relations
(202) 416-2116

cc: Roger C. Altman
Ellen B. Kulka
Arthur J. Kusinski
Dennis I. Foreman

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

FAX COVER SHEET

DATE: 4-25-94

TO: J. Binkley

FROM: D. Posholt
OFFICE OF ETHICS

FAX NUMBER: (202) 416-2481

PAGES TO FOLLOW: 3

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COMMENTS:

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```
     TEL:                                        Apr 25'94   16:29

           Transmit Confirmation Report

No.               :  004
Receiver          :  96221176
Transmitter       :
Date              :     Apr 25'94   16:29
Time              :  00'57
Mode              :     Norm
Pages             :  02
Result            :  OK
```

DRAFT

April 25, 1994

Jenny Mummert, (202) 225-5834
Subcommittee on Treasury, Postal Service,
and General Governmental Appropriations
of the House Appropriations Committee
United States House of Representatives
U.S. Capitol Building, Rm-164
Washington, D.C. 20515

Dear Ms. Mummert:

This letter is in response to question 3 of your list of questions submitted to the Department of the Treasury at its March 8, 1994 hearing on the Treasury's FY '95 budget request. The Department of the Treasury has asked the Resolution Trust Corporation today to release a copy of a memorandum, dated February 18, 1994, from our Designated Agency Ethics Official, Arthur J. Kusinski, to Mr. Altman regarding Mr. Altman's recusal from RTC Madison Guaranty matters. It is our understanding that this document, from Mr. Kusinski to Mr. Altman, was included as an attachment to an internal Treasury Department document, dated February 23, 1994, from Dennis I. Foreman, Deputy General Counsel and Designated Agency Ethics Official, Department of Treasury, to Secretary Bentsen.

This document is being provided to you with the understanding that it will remain confidential.

Sincerely,

Peter E. Knight
Director
Office of Governmental Relations
(202) 416-2116

cc: Roger C. Altman
Ellen B. Kulka
Arthur J. Kusinski
Dennis I. Foreman

Document request from Treasury

Subcommittee on Treas, PS, &
Gen Govt of the
of ~~House~~
House Approp Committee

RM H-164
Capitol Bldg.
Zip 20515

Del. to

225-5834
Person Admin Aid
Jenny Mummert
Mr. Steny H. Hoyer
Honorable

To: Donald L. Rosholt@Ethics@RTCDC
Cc· Arthur J. Kusinski@Ethics@RTCDC
William C. Collishaw@Legal-ra@RTCDC
Peter E. Knight@OGR@RTCDC
Bcc:
From: John C. Binkley@Legal-ra@RTCDC
Subject: Ethics opinion
Date: Monday, April 25, 1994 13:56:01 EDT
Attach:
Certify: Y
Forwarded by:

Don: I have reviewed Art's opinion as to whether Mr. Altman had to recuse himself in the Madison matter. I believe a proper characterization of the document is a final opinion of the Ethics Office and not necessarily a recommendation to Mr. Altman (although I realize there is a very short recomendation portion that could be segregable from the opinion--I think it is deminimus in nature). Consequently, I am recommending that the document can be disclosed and Bill concurs. However, since it is an RTC document, Bill and I believe that it is more appropriately disclosed by the RTC and not by Treasury. This is consistant with some other recent disclosures to the Hill of documents that Treasury had an involvement. Since you have a copy of the request and the document, we can respond though OGR. It is for that reason I have put Peter on as cc.

If vou have an questions, please give me a call.

To: John C. Binkley@Legal-ra@RTCDC
Cc: ajk
Bcc:
From: Donald L. Rosholt@Ethics@RTCDC
Subject: Treasury request
Date: Monday, April 25, 1994 12:56:51 EDT
Attach:
Certify: N
Forwarded by:

I received another call from Treasury on the issue we gave you this morning. The issue is in response to Qs & As resulting from Treasury's appropriation hearing.

The Designated Agency Ethics Official (DAEO) at Treasury has been asked to provide this as it was an attachment to a document that he provided to Treasury officials indicating that he concurred in the determination by Art.

If you want a copy of their request pls let me know and I will ask for one for you.

Don

TO Steve

TIME 1:55 DATE 4/25

WHILE YOU WERE OUT

M Anne

OF

PHONE ( )

☐ URGENT!
☑ Telephoned
☐ Returned your call
☐ Called to see you
☐ Please call
☐ Wants to see you
☐ Will call again
☐ You'll know

MESSAGE

OPERATOR: Peggie

23-024—400 SETS 23-027—200 SETS

TO Colin

TIME 2:04 DATE 4/25

WHILE YOU WERE OUT

M Brigette

OF

PHONE ( )

☐ URGENT!
☐ Telephoned
☐ Returned your call
☐ Called to see you
☐ Please call
☐ Wants to see you
☐ Will call again
☐ You'll know

MESSAGE

OPERATOR: Peggie

23-024—400 SETS 23-027—200 SETS

TO Don / Art

TIME 2:27 DATE 4/25

WHILE YOU WERE OUT

M Ken Schmaltzbach

OF

PHONE ( ) 622-0450

☐ URGENT!
☐ Telephoned
☐ Returned your call
☐ Called to see you
☐ Please call
☐ Wants to see you
☐ Will call again
☐ You'll know

MESSAGE

OPERATOR: Peggie

23-024—400 SETS 23-027—200 SETS

TO Art / Don

TIME 2:27 DATE 4/25

WHILE YOU WERE OUT

M Ken Schmaltzbach

OF

PHONE ( )

☐ URGENT!
☐ Telephoned
☐ Returned your call
☐ Called to see you
☐ Please call
☐ Wants to see you
☐ Will call again
☐ You'll know

MESSAGE

TO Don / Art

TIME 12:27

DATE 4/25

WHILE YOU WERE OUT

M Ken Schmaltzbach

OF

PHONE ( ) 622-0450

☐ URGENT!
☐ Returned your call
☐ Please call
☐ Will call again

☐ Telephoned
☐ Called to see you
☐ Wants to see you
☐ You'll know

MESSAGE

OPERATOR: Peggy

23-024—400 SETS 23-027—200 SETS

2/18/94

Art's Advisory letter is it ok to list these.

ASAP

Ken ~~[illegible]~~
Schmaltzbach

Art,
I told Ken we would handle this ASAP but that you may need to check w/ Ellen –

TOPS NO. 4002

Litho in U.S.A.

WHILE YOU WERE AWAY

FOR [illegible] DATE 2/25 TIME 2/[illegible] A.M. P.M.

M [illegible]

OF [illegible]

PHONE [illegible]
AREA CODE NUMBER EXTENSION

MESSAGE

SIGNED

☐ PHONED
☐ RETURNED YOUR CALL
☐ PLEASE CALL
☐ WILL CALL AGAIN
☐ CAME TO SEE YOU
☐ WANTS TO SEE YOU

TOPS FORM 4002

WHILE YOU WERE AWAY

FOR [illegible] / Dan DATE 2/23 TIME 11:55 A.M. P.M.

M Klaus Schmalzbach

OF Treasury

PHONE
AREA CODE NUMBER EXTENSION

MESSAGE

SIGNED

☑ PHONED
☐ RETURNED YOUR CALL
☑ PLEASE CALL
☐ WILL CALL AGAIN
☐ CAME TO SEE YOU
☐ WANTS TO SEE YOU

TOPS FORM 4002

TOPS NO. 4002

Litho in U.S.A.

WHILE YOU WERE AWAY

FOR DATE TIME A.M. P.M.

M [illegible]

OF

PHONE
AREA CODE NUMBER EXTENSION

MESSAGE [illegible]

SIGNED

☐ PHONED
☐ RETURNED YOUR CALL
☐ PLEASE CALL
☐ WILL CALL AGAIN
☐ CAME TO SEE YOU
☐ WANTS TO SEE YOU

TOPS

WHILE YOU WERE AWAY

FOR DATE TIME A.M. P.M.

M [illegible]

OF

PHONE
AREA CODE NUMBER EXTENSION

MESSAGE

☐ PHONED
☐ RETURNED YOUR CALL

The Honorable Frank R. Wolf
Treasury, Postal and General Government Appropriations
Questions for Secretary Bentsen

WHITE HOUSE/TREASURY MEETINGS ON MADISON-WHITEWATER

1. Last Friday I requested that your Treasury Inspector General conduct an investigation of the recent meetings of Treasury officials with the White House. Yesterday I was informed that in contacting the special counsel regarding this matter, the IG's office was told not to proceed with their investigation while the special counsel's investigation is addressing this matter. ~~512~~

- 512 **What is your understanding of the status of the OGE investigation that you requested in light of the subpoenas issued by Special Counsel Fiske? Will their investigation continue and will they also be asked to discontinue any action while the special counsel pursues this matter?**
- 513 **Why did you choose to ask the Office of Government Ethics to review this matter rather than your own Treasury IG?**
- 514 **Were you aware that the Office of Government Ethics does not conduct investigations? Did you know that they actually only review the investigations of other agencies which in this case would be the White House?**
- 515 **Did you know that in this case an OGE investigation would consist of the White House Counsel's office investigating itself and then the OGE subsequently reviewing this investigation?**

2. Were you aware of Congressman Leach's February 3, 1994 letter to Mr. Altman asking him to recuse himself from RTC matters? (It was reported in the press.

- 516 **Did you discuss this matter with Mr. Altman at that time?**
- 517 **Were you aware of Mr. Altman's letter last year recommending against extension of the statute of limitations for**

civil lawsuits brought against S&L wrongdoers? Did you support this decision? Do you realize this recommendation would have in effect precluded suits against Madison-Whitewater? Did anyone at the Department lobby against this provision when it passed last year?

518 - Does it bother you that the meetings that Mr. Altman had were conducted after the request made by Mr. Leach for Mr. Altman to recuse himself?

519 - Mr. Leach wrote to Mr. Altman on February 3, "it has been an awkward situation to have a presidentially appointed and confirmed officier of the Treasury Department also head an independent federal agency, the Resolution Trust Corporation." Why has it taken over a year for the Clinton Administration to appoint an RTC head?

520 - How can a political appointee of an executive branch department make what are in effect law enforcement decisions for a independent federal agency if they touch upon the President as they may in this case?

521 - Do you think it is ethically questionable for a political appointee of the Department of Treasury to make decisions for an independent federal agency when the President or the First Lady may be implicated in enforcement and civil actions?

522 - Given recent events, was not Mr. Leach's letter asking for a recusal by Mr. Altman appropriate?

3. In a February 23, 1993 letter General Counsel Jean Hanson wrote to Congressman Leach that Deputy Secretary Altman consulted ethics officials at the RTC and Treasury's Designated Agency Ethics official in consultation with the Office of Government Ethics.

523 - Could you provide for this committee these ethics advisory opinions.

524 - Given that this letter was written after both Mr. Altman's meetings with the White House staff and Ms. Hanson's two meetings with White House staff, does this raise any concern in your mind?

525 - Do you believe this Feb. 23, 1993 from the General Counsel

was forthright with the facts in this matter?

- 526 Weren't the meetings that Treasury officials had with the White House exactly what Congressman Leach was concerned about?

- 527 Were the ethics officers advised of the meetings with the White House when making these decisions?

3. Having represented thousands of federal employees over the years I am troubled by the prospect of career employees being put in compromising positions with matters such as this. When the Deputy Secretary or General Counsel approach individuals in the Treasury Department or one of the independent agencies to do something that is improper or unethical, they are put in a very difficult situation.

- 528 How are you working to resolve this in light of recent events?

- 529 Have you talked with RTC senior vice president Bill Roelle about the briefing that he provided Ms. Hanson on the status of the request for an investigation into Madison? Did he know to what purposes she intended to use such a briefing?

530 4. When did you first learn of each of these meetings? How do you know whether or not other such meetings may have occurred?

5. 531 On Sunday, The Washington Post said the White House has been guilty of "improprieties that a child of four could have figured out." Your Chief of Staff, Josh Steiner, is quoted as saying there was nothing wrong in conferring with the White House about this matter. With whom do you agree? When did Mr. Steiner first inform you of his involvement in meeting with the White House? Was he working for you or Mr. Altman at the time of the meeting he attended with the White House?

6. ~~532~~ One aspect that is particularly troubling in this affair is that even after the Altman meeting was disclosed, the Treasury Department was not forthcoming about the additional meetings. In fact, Ms. Hanson who attended the hearing with Mr. Altman mentioned nothing about the earlier fall meetings in which she discussed RTC "criminal referrals" with White House Counsel Nussbaum and other White House staff members. In these referrals, the Clintons were named as possible beneficiaries of the S&L's illegal activities.

TO Don

DATE 4/11 TIME 4:20

PHONE CALLS

"WHILE OUT" RECORD

M. Jack Dailey

OF

PHONE
AREA CODE NUMBER EXTENSION

TELEPHONED	☐	PLEASE CALL	☐
CALLED TO SEE YOU	☐	RETURNED CALL	☑
WILL CALL AGAIN	☐	URGENT	☐

MESSAGE Attrea Plan
Relieved from RTC
not Training

TAKEN BY: [illegible]

[illegible] / D'Mato Requests

WHILE YOU WERE AWAY

FOR Do DATE 3/22 TIME 4:08 A.M. P.M.

M Jane Ley

OF

PHONE 523-5377
AREA CODE NUMBER EXTENSION

MESSAGE

SIGNED Peggie

- PHONED
- ✓ RETURNED YOUR CALL
- PLEASE CALL
- WILL CALL AGAIN
- CAME TO SEE YOU
- WANTS TO SEE YOU

TOPS FORM 4002

United States
Office of Government Ethics
1201 New York Avenue, NW., Suite 500
Washington, DC 20005-3917

March 22, 1994

The Honorable James A. Leach
Ranking Member
Committee on Banking, Finance and Urban Affairs
House of Representatives
2129 Rayburn House Office Building
Washington, DC 20515-6050

Dear Congressman Leach:

I want to let you know what the Office of Government Ethics (OGE) is doing in response to your letter dated March 1, 1994.

Your letter asks for OGE's review and advice as to whether a meeting between three White House officials and Roger Altman, Interim Chief Executive Officer of the Resolution Trust Corporation (RTC) and Deputy Secretary of the Treasury, "violated any guidelines of government ethics, regulations, or law." Various sections of title 3 C.F.R. and title 12 C.F.R. are cited in your letter as possibly being applicable to this matter.

After receiving your letter, my staff contacted Independent Counsel Robert Fiske to request a meeting. OGE has also received a letter from Lloyd Bentsen, Secretary of the Treasury, asking for our views regarding certain actions that may have been taken by members of his staff. Because media reports had indicated that Mr. Fiske's office had issued subpoenas to certain Treasury and White House officials, we felt it was necessary to meet with Mr. Fiske and/or his representatives before proceeding in any fashion with respect to either your letter or Secretary Bentsen's letter. A copy of OGE's letter to Mr. Fiske was sent to you.

Early last week, OGE staff met with the staff from the Office of the Independent Counsel. At the meeting, my staff outlined OGE's role in the executive branch and discussed the steps that OGE might take in response to your letter and the letter from Secretary Bentsen. OGE agreed not to pursue any activities at this time that might jeopardize any investigation now being conducted by Mr. Fiske. OGE asked the Office of the Independent Counsel to notify us when an administrative investigation of employee conduct could proceed. We have since received a letter from that office confirming our conversation. Holding any administrative investigation in abeyance until a criminal investigation is at a stage where it will not be compromised follows the long-standing guidance of the Department of Justice (DOJ). Copies of that DOJ guidance are enclosed for your information.

In the meantime, my staff has arranged to meet with the Inspector General (IG) Offices at both the Department of the Treasury and the RTC. OGE is not an investigatory agency. We believe that we can effectively work with the investigators in those offices so that any information we believe relevant to issues of the application of the standards of ethical conduct can be developed and included in a report from those offices.*

We understand that the IG at the Department of the Treasury has received a request from at least one member of Congress to investigate the matter which is the subject of your letter to OGE, and that the IG, like OGE, is acceding to a request from the Independent Counsel not to proceed on the matter at this time. Accordingly, our discussions with the IG offices will focus on what actions we each might take in the future, once the Independent Counsel has notified us that we may proceed. We will then provide you with our views as to any ethics or conflicts issues that may be raised by the investigative reports.

Sincerely,

Stephen D. Potts
Director

Enclosures

cc: Lloyd Cutler
Counsel to the President

Jean Hanson
General Counsel
Department of the Treasury

Art Kusinski
Director of Office of Ethics
Resolution Trust Corporation

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* It is important to note in this regard that some of the regulations cited in your letter were superseded on February 3, 1993, by OGE's executive branch-wide "Standards of Ethical Conduct" in 5 C.F.R. part 2635. Therefore, it will be the Standards of Ethical Conduct in 5 C.F.R. part 2635 upon which OGE will focus. The cited provision in 3 C.F.R. regarding "General conduct prejudicial to the Government" was not superseded by 5 C.F.R. part 2635 because it is derived from employee conduct regulations issued by the Office of Personnel Management in 5 C.F.R. part 735.

Dr Kusinski

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

March 18, 1994

MEMORANDUM TO: Roger C. Altman
Jack Ryan

FROM: Peter E. Knight
Director
Office of Governmental Relations

SUBJECT: Report on High Priority Outstanding Congressional Letters and Statutory Reports Due to Congress

Listed on the attached are significant data requests presently outstanding from Members of Congress.

Attachments

cc: Joan Affleck-Smith
Robin Gross
Jean Hanson
Ben Nye
Vic Rojas
Johnnie Booker
Donna Cunninghame
Thomas P. Horton
Ellen Kulka
John Lynn
Sally McCormick
J. Paul Ramey
Jack Buckley
Listed assignees
OGR staff

801 17th Street, N.W. Washington, D.C. 20434

Report on High Priority Outstanding
C essional Requests

03/18/94

SENATE	LETTER DATED	RECEIVED	SUBJECT	STATUS	ASSIGNEE
*Riegle 12816-17	10/25/93	11/01/93	Re RTC employees' allegations of discrimination, waste, abuse, and mismanagement in the Office of Contractor Oversight and Surveillance	Interim sent 11/15/93, saying Booker and Adair investigating allegations; second interim sent 2/9/94 saying review will be completed by mid-March	Booker Adair
Faircloth 12936	03/04/94	03/07/94	Re Rose Law Firm fee bills pertaining to Madison	Reply due 3/21/94	Kulka Collishaw
HOUSE	**LETTER DATED**	**RECEIVED**	**SUBJECT**	**STATUS**	**ASSIGNEE**
*Bacchus, Gibbons, Hoyer, Owens 12669-73	07/28/93	08/03/93	Re treatment of individuals with disabilities under RTC's Minority Outreach Program	8/18 faxed reply to Treasury for approval; Treasury asked RTC Legal to review; 8/23 Aboussie wrote memo to Mr. Altman; awaiting Treasury decision-2/22 revised draft to Kulka for review	Kulka
*Dellums 12390	11/24/93	11/29/93	Re potential conflict of interest precluding Williams, Adley and Company from bidding on contract	Interim sent 12/2 another interim to Treasury 12/14; final to Treasury 2/3 & 2/16 for approval (with disks); 3/14 Treasury returned to Kulka	OGR
*Rangel 12431	12/07/93	12/07/93			Lynn
Flake 12461	meeting				
Flake 12955 12957	03/02/94	03/09/94	Follow-up questions to hearing held 3/2 re minority resolution preference guidelines; and contracting policy and procedures revisions	Reply due as soon as information becomes available	Lynn Ramey
Flake 12999	03/10/94	03/15/94	Re New York City's rent control wants statistics	Reply due 3/18/94	Valley Forge
Franks 12861	02/18/94	02/22/94	Re the establishment of an Internal Control Division under the Chief Financial Officer, why the Office of Contractor Oversight and Surveillance reports to the Contracts Office, and the lack of minorities in management positions	3/16 returned by Deputy CEO to OGR for rewrite	OGR
*Gonzalez Schenk 12727-28	01/19/94	02/01/94	Re hearing in San Diego on 9/1/93 re sale of HomeFed Bank and the impact on financial services in low-income areas	Reply to Treasury 2/18/94 for approval (with disk), 3/14 returned by Treasury, 3/17 revised draft to Kulka for approval before going to Ryan	Kulka
*Johnson, Eddie Bernice 12297	09/30/93	10/07/93	Re plan to rectify contract awards to MWOB firms, particularly in Dallas Office	Interim sent 11/8/93, saying will be back to her shortly with plan, final to Treasury for approval 1/27, 3/14 Treasury returned to RTC for handling	Booker

HEARING	LETTER DATED	RECEIVED	SUBJECT	STATUS	ASSIGNEE
Leach 12922	03/01/94	03/03/94	Re has CEO conduct violated ethics guidelines	Reply due 3/22/94	Kulka Kusinski
Leach 12929	03/01/94	03/03/94	Altman meeting with White House officials – should resign all RTC responsibilities	Reply due ASAP	Kulka
Leach 13005	03/11/94	03/14/94	Listing of Congressional briefings on Madison	Reply due 3/22/94	OGR
*Nadler 12573	12/17/93	01/03/94	Re mortgage refinancing for West 79th Street Coop in New York	Reply to Treasury 2/1; Treasury returned to Kulka 3/17/94 for handling	Kulka
*Spratt 12464	12/08/93	12/13/93	Re requested copies of Stanley Tate's proposal statement before the Senate Banking Committee and the RTC's response to the whistleblower's allegations	Partial response sent on 12/23 by TDPOB transmitting info on Mr. Tate; Treasury reviewing paper on whistle-blower allegations	Gross

HOUSE	LETTER DATED	RECEIVED	SUBJECT	STATUS	ASSIGNEE
Gonzalez 12932	03/03/94	03/04/94	Hearing – re Semiannual Appearance of TDPOB	To be held March 24 10 00 a m	Kolatch

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*In house more than 30 days

Statutory and Other Reports to Congress
(03/18/94 - 03/31/94)

1st Quarter

REPORT TITLE	ENACTING LEGISLATION	STATUTORY BASIS	REPORT PERIOD	DUE DATE	ASSIGNEE
INVESTIGATIONS REPORT	CRIME CONTROL ACT OF 1990 (Sec. 2540)	Sec. 21A(b)(11)(G) of FHLBA	Jul. 1, 1993 - Dec. 31, 1993	February 28, 1994	Jim Dudine
QUARTERLY FINANCIAL OPERATING PLAN REPORT	RTC FUNDING ACT OF 1991	Sec. 21A(k)(8) of the FHLBA	Jan. 1, 1994 - Dec. 31, 1994	March 31, 1994 (1st Qtr. Projection)	Vern McKinley
BUDGET REPORT	RTCRRIA	Sec. 21A(k)(10) of the FHLBA	Jan. 1, 1994 - Dec. 31, 1994	March 31, 1994 (1st Qtr. Projection)	Marty Rajk
COASTAL BARRIERS IMPROVEMENT ACT REPORT	COASTAL BARRIERS IMPROVEMENT ACT	12 U.S.C. 1441a-3	Jan. 1, 1993 - Dec. 31, 1993	March 31, 1994	John Hansel

P:\PUBLIC\WP\RPT10318.94

TO Don

DATE 3/18/94 TIME 130

PHONE CALLS

"WHILE OUT" RECORD

M. Ken Schmalzbach

OF Treasury

PHONE 622-0450
AREA CODE NUMBER EXTENSION

TELEPHONED	☑	PLEASE CALL	☑
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MESSAGE Release of Atts
Memo to Roger.
Conf doc needs Altmans
release

TAKEN BY:

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission (NRC) has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

1. *Type of submission, new, revision, or extension:* Revision.

2. *The title of the information collection:* 10 CFR part 72—Licensing Requirements for the Independent Storage of Spent Nuclear Fuel and High-Level Radioactive Waste.

3. *The form number if applicable:* Not applicable.

4. *How often the collection is required:* Required reports are collected and evaluated on a continuing basis as events occur. Applications for new licenses or amendments may be submitted at any time. Applications for renewal of licenses would be required every 20 years for an Independent Spent Fuel Storage Installation (ISFSI) and every 40 years for a Monitored Retrievable Storage (MRS) facility.

5. *Who will be required or asked to report:* Vendors of casks for the storage of spent fuel, licensees and applicants for a license to possess power reactor spent fuel and other radioactive materials associated with spent fuel storage in an ISFSI, and the Department of Energy for licenses to receive, transfer, package and possess power reactor spent fuel, high-level waste, and other radioactive materials associated with spent fuel and high-level waste storage in an MRS.

6. *An estimate of the number of responses:* 93.

7. *An estimate of the total number of hours needed to complete the requirement or request:* 165 hours annually per response and 756 hours annually for eight recordkeepers. The estimated annual industry burden is 21,431 hours.

8. *An indication of whether Section 34(h), Pub. L. 96-511 applies:* Not applicable.

9. *Abstract:* 10 CFR part 72 establishes requirements, procedures, and criteria for the issuance of licenses to possess power reactor spent fuel and other radioactive materials associated with spent fuel storage, in an independent spent fuel storage installation, and requirements for the issuance of licenses to the Department of Energy to receive, transfer, package, and possess power reactor spent fuel and high-level radioactive waste, and other associated radioactive materials, in a monitored retrievable storage facility.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

Comments and questions may be directed by mail to the OMB reviewer: Ronald Minsk, Paperwork Reduction Project (3150-0132), Office of Information and Regulatory Affairs, NEOB-3019, Office of Management and Budget, Washington, DC 20503.

Comments may also be communicated by telephone at (202) 395-3084.

The NRC Clearance officer is Brenda Jo. Shelton, (301) 492-8132.

Dated at Bethesda, Maryland, this 4th day of March 1992.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 92-6065 Filed 3-13-92; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Meeting

The Office of Personnel Management announces the following meeting:

Name: Federal Labor Advisory Group (FLAG).

Date and Time: April 21, 1992, 2 p.m.

Place: Office of Personnel Management, 1900 E Street, NW., room 5A06A, Washington, DC 20415-0001.

Type of Meeting: Open.

Point of Contact: Allan D. Heuerman, Assistant Director for Labor Relations and Workforce Performance, Personnel Systems and Oversight Group, Office of Personnel Management, 1900 E Street, NW., room 7412, Washington, DC 20415-0001.

Purpose of Meeting: To discuss members' views on status of Federal labor-management relations program.

Agenda: introduction; group organization and administration; discussion; public input; closing.

Office of Personnel Management.

Constance Berry Newman,

Director.

[FR Doc. 92-5938 Filed 3-13-92; 8:45 am]

BILLING CODE [illegible]-01-M

RESOLUTION TRUST CORPORATION

Office of the Secretary

Privacy Act of 1974; System of Records

AGENCY: Resolution Trust Corporation.

ACTION: Notification of system of records.

SUMMARY: The Corporation is giving notice of a system of records it intends to maintain which is subject to the Privacy Act of 1974.

EFFECTIVE DATE: This proposal shall become effective without further notice on April 15, 1992, unless comments are received during or before that date which would result in a contrary determination.

ADDRESSES: Interested persons are invited to submit comments regarding this notice to the Secretary of the Resolution Trust Corporation (RTC or Corporation), 801 17th Street, NW., Washington, DC 20435-0001. Comments should refer to the above title. A copy of each comment received will be available for public inspection and copying between the hours of 9 am and 5 pm on regular business days at the RTC's Public Reading Room, room 100, 801 17th Street, NW., Washington, DC 20434-0001.

FOR FURTHER INFORMATION CONTACT: Richard White, Privacy Act Attorney, RTC, Office of the Secretary, International Place, 1735 North Lynn Street, Rosslyn, VA 22209. Telephone (703) 908-6137. (This is not a toll-free number)

SUPPLEMENTARY INFORMATION: The system is the FDIC/RTC Employee Financial Disclosure Statements System, RTC-2. It will contain information on current and former employees of the Federal Deposit Insurance Corporation (FDIC) who work for or who have worked for the RTC. The information in the system is collected pursuant to section 502 of Executive Order 12674 as amended by Executive Order 12731, the Federal Home Loan Bank Act of 1932, 12 U.S.C. 1441A(b), as amended and the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, 12 U.S.C. 1441p.

The information in the system will be used to determine if applicants for employment with the RTC or present employees of the FDIC who work for the RTC (FDIC/RTC employees) may have a conflict of interest with respect to the duties and responsibilities of their employment with the RTC and their or any of their family members' financial holdings, business interests, real estate interests or outside employment or affiliations.

The system will also contain information on FDIC/RTC employees and their family members concerning extensions of credit, for secured or unsecured loans, from insured and non-insured depository institutions, and documentation relating to requests for approval of certain loans extended by insured depository institutions or affiliates thereof. Such information will be used to evaluate any possible conflict of interest the employee or any family member may have concerning a credit transaction and his/her employment with the FDIC/RTC.

The system will contain information on FDIC/RTC employees or their family members' ownership or control of any securities of insured depository institutions or affiliates thereof and any requests to purchase or retain present ownership of such securities. Such information is used to evaluate any possible conflict of interest resulting from the ownership and/or potential ownership of such securities and employment with the FDIC/RTC.

The system will contain information concerning an FDIC/RTC employee's prospective employment, the nature of the business of the prospective employer, the position the employee will occupy, the dates of negotiation for employment, and the employee's official involvement, if any, with the prospective employer. This information will be used to evaluate any possible conflict of interest between an employee's duties and responsibilities with FDIC/RTC and his/her prospective employment.

Finally, the system will contain an employee's acknowledgement of receiving FDIC/RTC standards of conduct training, including an affirmative acknowledgement of individual responsibility to adhere to the provisions of the standards of conduct.

Accordingly, the Corporation is establishing the following System of Records: FDIC/RTC Employee Financial Disclosure Statements System. RTC-2

RTC-2

SYSTEM NAME:

FDIC/RTC Employee Financial Disclosure Statements System. RTC-2.

SYSTEM LOCATION:

Confidential Statements of Employment and Finanical Interests, Reports of Interest in Bank Securities, Confidential Reports of Employment Upon Resignation, Employee Certification and Acknowledgement of FDIC/RTC Standards of Conduct Regulation, and any financial disclosure/conflict of interest or similar form required to be completed by the Office of Government Ethics, and related records are located in designated divisional, regional, or consolidated offices to which individuals covered by the system are assigned. Duplicate copies of the above records are maintained in the Office of Ethics and Protests, RTC, 801 17th Street, NW., Washington, DC 20434-0001, for the purpose of certification of review and resolution of conflicts of interest disclosed therein. Confidential Reports of Indebtedness and related records are located in the Office of Ethics. A list of the RTC's divisional, regional and consolidated offices is available from the RTC Reading Room, 801 17th Street, NW., Washington, DC 20434-0001, (202) 416-6940.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Federal Deposit Insurance Corporation officers and employees who are working for or who have worked for the RTC, and special government employees required to file any of the following forms: (1). Confidential Statement of Employment and Financial Interests; (2) Confidential Report of Indebtedness; (3) Report of Interest in Bank Securities and Interest in RTC Decision; (4) Confidential Report of Employment Upon Resignation; and (5) Employee Certification and Acknowledgement of FDIC/RTC Standards of Conduct Regulation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information in this system includes data directly furnished by the individual on the following five forms or related records that may be generated in the course of the RTC's administration of Executive Orders 12674 and 12731 as amended or as superseded, and/or 12 CFR part 1605:

(1) Confidential Statement of Employment and Financial Interests—Contains statements of personal and family holdings, interests in business enterprises and real property, creditors, and outside employment.

(2) Confidential Report of Indebtedness—Contains information on extensions of credit (loans and credit cards) by insured and non-insured depository institutions and their affiliates; and may also contain memoranda and correspondence relating to requests for approval of certain loans extended by insured depository institutions or affiliates thereof.

(3) Report of Interest in Bank Securities and Interest in RTC Decision—Contains information on whether or not an employee owns or controls, directly or indirectly, any securities of insured depository institutions or affiliates thereof, and if so, lists specific securities, the nature and extent of such interests and the manner of acquisition, contains information on other outside interests which may have an impact on an employee's official duties, and may contain memoranda and correspondence relating to requests for approval of retention of securities of insured depository institutions by employees.

(4) Confidential Report of Employment Upon Resignation—Contains information as to the employee's prospective employer, the nature of the business or organization activities of the prospective employer, the position the employee will occupy, dates of negotiation for such employment, and the employee's official involvement, if any, with the prospective employer.

(5) Employee Certification and Acknowledgement of FDIC/RTC Standards of Conduct Regulation—Contains employee's certification and acknowledgement that he or she has received a copy of the standards of conduct, has viewed the FDIC/RTC Orientation Ethics Video, and has a positive responsibility to comply with the standards of conduct.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 502 of E.O. 12674, 3 CFR 215 (1989), as amended by E.O. 12731, 3 CFR 306 (1990); section 21A of the Federal Home Loan Bank Act of 1932 (12 U.S.C. 1441a(b)), as amended. The Financial Institutions Reform, Recovery, and Enforcement Act of 1989, 12 U.S.C. 1441(p).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in this system may be disclosed where the Director of the U.S. Office of Government Ethics or the RTC's Chief Executive Officer, or designee, determines that good cause has been shown for such use:

(1) To the appropriate federal, state, or local agency or authority responsible for investigating or procesuting a violation of or for enforcing or implementing a statute, rule, regulation, or order when the information indicates a violation or potential violation of law whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute or by regulation, rule, or order issued pursuant thereto.

(2) To a congressional office in response to an inquiry made at the request of the individual to whom the information pertains.

(3) To any source where necessary to obtain information relevant to a conflict-of-interest investigation or determination.

(4) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation or settlement negotiations, or in connection with the criminal proceedings.

(5) To the United States Office of Personnel Managment, Office of Government Ethics, the Merit Systems Protection Board, the Office of the Special Counsel, the Federal Labor Relations Authority, an aribtrator, and the Equal Employment Opportunity Commission, to the extent disclosure is necessary to carry out the government-wide personnel management, investigatory, adjudicatory and appellate functions with their respective jurisdiction.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders in Office of Ethics and Protests and designated divisional, regional, or consolidated offices to which individuals covered by the system are located, and on an automated tracking system.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Maintained in lockable metal file cabinets in lockable offices and, on a password-protected automated index system.

RETENTION AND DISPOSAL:

Retained for six years and then destroyed by shredding except when the documents are relevant and/or needed in an ongoing investigation they will be retained until no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Ethics Program Manager (Employees), RTC, 801 17th Street, NW., Washington, DC 20434–0001.

NOTIFICATION PROCEDURE:

Requests must be in writing and addressed to the Office of the Secretary, RTC, International Place, 1735 North Lynn Street, Rosslyn, VA 22209. The request must contain the name and office of the individual covered by the system, and a notarized statement attesting to the individual's indentity may be required.

RECORD ACCESS PROCEDURE:

Same as "Notification" above.

CONTESTING RECORD PROCEDURES:

Same as "Notification" above.

RECORD SOURCE CATEGORIES:

The information is obtained from the individual on whom the record is maintained or a person designated by him or her and from the RTC's Ethics Program Manager (Employees) and support personnel. Information may also be obtained from the other parties to whom the RTC has supplied information in connection with evaluating the records maintained in the Employee Financial Disclosure Statements system.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Dated at Washington, DC this 10th day of March 1992.

Resolution Trust Corporation.

John M. Buckley, Jr.,

Secretary.

[FR Doc. 92–5990 Filed 3–13–92; 8:45 am]

BILLING CODE 6714–01–M

SECURITIES AND EXCHANGE COMMISSION

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Boston Stock Exchange, Incorporated

March 10, 1992.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f–1 thereunder for unlisted trading privileges in the following securities.

Coleman & Co., Inc.
  Common Stock, $.01 Par Value (File No. 7–8183)
Calleway Golf Co.
  Common Stock, $.01 Par Value (File No. 7–8184)
Musicland Stores Corp.
  Common Stock, $.01 Par Value (File No. 7–8185)
Value Merchants, Inc.
  Common Stock, $.01 Par Value (File No. 7–8186)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before March 31, 1992, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92–6064 Filed 3–13–91; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–30452; File No. SR–CBOE–92–07

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to March 1992 Expiration Series for Capped OEX Options

March 6, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on February 21, 1992, The Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Exchange Rule 24.9, Commentary .03(b), provides that the CBOE may list one at-the-money call and one at-the-money put capped-style option on the Standard & Poor's 100 Index ("OEX") with expirations of up to four months into the future. Commentary .03(b) also provides that additional at-the-money series with expirations of up to four months may be listed every two months. Accordingly, pursuant to Exchange Rule

Hypothetical Situation
Ethics advice that
went to Altman

Release

PA issues

Bill Gressman
x1110 OGE
523-5757

United States
OFFICE OF GOVERNMENT ETHICS
1201 New York Avenue, NW., Suite 500
Washington, DC 20005-3917
FAX: (202) 523-6325

FACSIMILE TRANSMISSION COVER SHEET

DATE: 3/18/94

TO: Irene Garner, RTC

FAX NO. 416-2481 Phone No. 416-4053

FROM: Bill Gressman, OGE Ext. 1110

COMMENTS: OGE/GOVT-1 & -2 PA systems

NUMBER OF PAGES (INCLUDING COVER SHEET) 6

If you did not receive the total number of pages, please call (202) 523-5757

(j) NASA Information Center, Stennis Space Center, Stennis Space Center, MS 39529.

(k) NASA Information Center, (Jet Propulsion Laboratory), NASA Resident Office, 4800 Oak Grove Drive, Pasadena, CA 91109.

(l) NASA Information Center, Wallops Flight Facility, Wallops Island, VA 23337.

Additionally, interested parties may obtain copies of the DEIS from the National Technical Information Service by calling (703) 487-4650 and requesting the document by its title or by its accession number, N90-14727.

Dated: February 15, 1990.

C. Howard Robins, Jr.,

Associate Administrator for Management.

[FR Doc. 90-4010 Filed 2-21-90; 8:45 am]

BILLING CODE 7510-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-341, License No. NPF-43, EA 89-196]

Detroit Edison Co. (Enrico Fermi 2 Nuclear Power Station); Order Modifying License

I

The Detroit Edison Company (Licensee) is the holder of Operating License No. NPF-43 issued by the Nuclear Regulatory Commission (NRC/Commission) on July 15, 1985. The license authorizes the Licensee to operate the (Enrico Fermi 2 Nuclear Power Station (Fermi) Unit 2 in accordance with the conditions specified therein.

II

During an NRC security inspection conducted during the period November through December 1988, it was discovered that Mr. Wayne Hastings, the Director of Nuclear Security (DNS), had instructed his staff to place safeguards information in a data processing system that was not secure. When questioned by an NRC inspector, the DNS stated that he was unaware that the system was, infact, not secure. Subsequently, an NRC investigation (Investigation No. 3-88-006) found that the DNS had been informed within about two months prior to placing the information on the system, both in writing and verbally by his staff, that the system was not secure and the data should not be entered on it. One such notification was immediately before the information was entered into the system. The investigation concluded that the DNS made a deliberate material false statement to the NRC security inspector.

III

Based on the results of the NRC inspection and investigation, the NRC has concluded that Mr. Wayne Hastings made a deliberate material false statement to an NRC inspector as described in Violation I.A of the Notice of Violation being issued this date to the licensee. The conduct of this individual cannot be tolerated. The public health and safety require that all persons engaged in activities affecting the safety and security of nuclear power plants provide the NRC with complete and truthful information. Based on the matter discussed above and the fact that Mr. Hastings is still employed by the Detroit Edison Company, I no longer have reasonable assurance that licensed activities conducted by or under the supervision of Mr. Hastings would be conducted in accordance with NRC requirements. Accordingly, I have concluded that it is necessary for the NRC to be informed if Mr. Hastings is again involved in any safety-related activities, to permit the NRC to determine, at that time, whether further regulatory action is required.

IV

Accordingly, pursuant to sections 103, 161b, 161i, and 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, the Commission's regulations in 10 CFR 2.204 and 10 CFR part 50, it is hereby ordered that:

License No. NPF-43 is modified by adding the following conditions:

> The Licensee shall provide the NRC Regional Administrator, Region III, written notice at least 30 days before reinvolvement of Mr. Wayne Hastings in safety-related activities authorized under License No. NPF-43. The notice shall include a statement from the Licensee as to its basis for concluding that, in light of the conduct of this individual, he will properly carry out licensed activities.

The Regional Administrator, Region III, may relax or terminate this condition for good cause.

V.

The Licensee, Mr. Hastings, or any other person adversely affected by this Order may request a hearing within 20 days after issuance of this Order. Any request for hearing shall be submitted to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies shall also be sent to the Assistant General Counsel for Hearings and Enforcement at the same address and to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region III, 799 Roosevelt Road, Glen Ellyn, Illinois 60137. If a person other than the Licensee or Mr. Hastings requests a hearing, that person shall set forth with particularity the manner in which the petitioner's interest is adversely affected by the Order and should address the criteria set forth in 10 CFR 2.714(d). Upon failure of the Licensee, Mr. Hastings, or any other person adversely affected by this Order to request a hearing within the specified time, this Order shall be final without further proceedings.

If a hearing is requested, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland this 12th day of February 1990.

Hugh L. Thompson, Jr.,

Deputy Executive Director for Nuclear Materials Safety, Safeguards, and Operations Support.

[FR Doc. 90-4039 Filed 2-21-90; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF GOVERNMENT ETHICS

Privacy Act of 1974; Systems of Records

AGENCY: Office of Government Ethics.

ACTION: Notice of the establishment of two Office of Government Ethics government-wide systems of records for the executive branch.

SUMMARY: This notice fulfills the requirement of the Privacy Act of 1974 (5 U.S.C. 552a(e)(4)) that an agency publish in the Federal Register notice of its systems of records. It documents the establishment of two government-wide executive branch Privacy Act systems of records of the Office of Government Ethics: OGE/GOVT-1 and OGE/GOVT-2. Apart from updating changes to reflect the new Ethics Reform Act and Executive Order on ethics and certain other, minor changes, these systems are virtually identical to the systems of records, OPM/GOVT-4 and OPM/GOVT-8, that were managed by OGE for the Office of Personnel Management (OPM) when OGE was a part thereof. OGE and OPM have agreed that these Privacy Act systems of records should be published as OGE systems in accordance with OGE's new status as a distinct and separate agency. Accordingly, OPM has deleted OPM/GOVT-4 and OPM/GOVT-8 from those

systems of records, *see* 55 FR 3802–3803 (February 5, 1990).

EFFECTIVE DATES: February 22, 1990 provided, that the new routine use b. of the OGE/GOVT-1 system of records shall only become effective on March 26, 1990.

ADDRESSES: Comments on any aspect of these OGE government-wide systems of records, including new routine use b. for OGE/GOVT-1, should be mailed to William E. Gressman, OGE Privacy Act contact, Office of Government Ethics, Suite 500, 1201 New York Avenue, NW, Washington, DC 20005–3917.

FOR FURTHER INFORMATION CONTACT: William E. Gressman or John C. Condray, Office of Government Ethics, Suite 500, 1201 New York Avenue, NW, Washington, DC 20005–3917, telephone (202/FTS) 523–5757, FAX (202/FTS) 523–6325.

SUPPLEMENTARY INFORMATION: The Office of Government Ethics, formerly a part of the Office of Personnel Mangement, is now a separate agency in the executive branch of the United States government. This separate agency status, effective October 1, 1989, was provided for in sections three and ten of OGE's 1988 reauthorization legislation, Public Law 100–598, amending the Ethics in Government Act, 5 U.S.C Appendix IV, section 401. In accordance with this change in status, OPM and OGE have agreed that the two OPM systems of records managed by OGE as part of the OPM systems of records (OPM/GOVT-4, Executive Branch Public Financial Disclosure Reports and Other Ethics Program Records, and OPM/GOVT-8, Confidential Statements of Employment and Financial Interests), which have been deleted from the OPM systems of records, shoulld be established as OGE systems of records OGE/GOVT-1 and OGE/GOVT-2. This notice describes the Office of Government Ethic's two government-wide executive branch Privacy Act systems of records as of February 22, 1990. These systems were last published as part of OPM's systems of records at 49 FR 36962 and 36970, on September 20, 1984, and were included in the 1987 Compilation of Privacy Act Issuances, Volume V, pages 420 and 426, as published by the Office of the Federal Register. As noted above, they were recently deleted from OPM's systems (55 FR 3802–3803 (February 5, 1990)).

The present OGE notice reflects the new separate executive agency status of OGE, whose Director remains the system manager for these two systems of records. In addition to the correction of typographical errors, various technical updating amendments are also being incorporated to reflect OGE's new office location and the additional bases for collection of the public and confidential reports and other information under new Executive Order 12674 of April 12, 1989 (54 FR 15159–15162), and the Ethics in Government Act, as amended by the Ethics Reform Act of 1989 (Public Law 101–194). As a result of the recent ethics legislation, one new routine use (b.) is being added to OGE/GOVT-1 to reflect public availability of certain waiver exemption determinations (unless they involve classified information). As noted, this new routine use is subject to a 30 day delayed effective date. Further under the new law, a new category of filers of financial reports (a limited number of additional personnel in the Executive Office of the President) has been added to OGE/GOVT-1 (see the second list to last enumerated category of filers in the section on "Categories of individuals covered by the system").

OGE has consulted informally with the Office of Management and Budget (OMB) and reviewed OMB Circular A–130 as to this matter and has determined that the changes from the prior OPM/GOVT-4 and OPM/GOVT-8 systems that are being made in establishing OGE/GOVT-1 and OGE/GOVT-2 do not require the filing of new or altered systems reports under 5 U.S.C. 552a(r) of the Privacy Act. OGE has however, submitted advance copies of this notice to the Congress and OMB for their information. Therefore, this notice is effective upon publication in the Federal Register, February 22, 1990, except that new routine use b. of the OGE/GOVT-1 system of records will not become effective until March 26, 1990.

Approved: February 15, 1990.

Donald E. Campbell,

Acting Director, Office of Government Ethics.

OGE/GOVT-1

SYSTEM NAME:

Executive Branch Public Financial Disclosure Reports and Other Ethics Program Records.

SYSTEM LOCATION:

Director, Office of Government Ethics, Suite 500, 1201 New York Avenue, NW., Washington, DC 20005–3917, and designated agency ethics offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on: The President, Vice President, and candidates for those offices; officers and employees including special Government employees, whose positions are classified at grades GS–16 and above or at an equivalent rate under another pay schedule; individuals who are classified at GS–16 and above or in equivalent positions who provide staff functions in support of an advisory committee composed of at least one special Government employee; officers or employees in a position determined by the Director of the Office of Government Ethics to be of equal classification to GS–16 or above; Administrative Law Judges; excepted service employees in positions that are of a confidential or policymaking nature unless an employee or groups of employees are exempted by the Director of the Office of Government Ethics; each member of a uniformed service whose pay grade is at or in excess of 0–7 under section 201 of title 37, United States Code; the Postmaster General, the deputy Postmaster General, Governor of the Board of Governors of the U.S. Postal Service and each officer of employee or employee of the U.S. Postal Service whose basic rate of pay is equal to or greater than the minimum rate of basic pay fixed for GS–16; the Director of the Office of Government Ethics and officials designated to act as agency ethics officers (designated agency ethics officials); any civilian employee employed in the Executive Office of the President (other than a special Government employee) who holds a commission of appointment from the President; and nominees for postions requiring Senate confirmation. This system includes both former and current employees in these categories who have filed financial disclosure statements under the requirements of the Ethics in Government Act of 1978, as amended, or who otherwise come under the requirements of the Ethics Act. For administering all provisions of the Ethics in Government Act of 1978 and the Ethics Reform Act of 1989 (Pub. L. 101–194), as amended, the system may contain information on any officer or employee of the executive branch.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains: Financial information such as salary, dividends, receipts from the purchase of sale of land, exchange of property, spouse's and children's interest earnings, funds from trust accounts, gifts, reimbursements, interest on property, and compensation for duties performed; information on liabilities in excess of $10,000; information about positions as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of any corporation, company, firm, partnership, or other business, non-profit organization, labor organization, or educational institution; information about non-Government employment agreements, such as leaves of absence to accept Federal service, continuation of payments by non-Federal employer welfare and benefit plans; and information about assets placed in trust pending disposal; and other documents developed by the Director of the Office of Government Ethics, or agency ethics officials in administering the Ethics of Government Act of 1978 or the Ethics Reform Act of 1989 (Pub. L. 101-194), as amended. Such other documents may include, but will not be limited to: Ethics agreements, documentation of waivers issued to an officer or employee by an agency pursuant to section 208(b)(1) or section 208(b)(3) of title 18, U.S.C.; certificates of divestiture issued by the President or by the Director of OGE pursuant to section 502 of the Ethics Reform Act of 1989 (26 U.S.C. 1043); and information necessary for the rendering of advice or formal advisory opinions, or the resolution of complaints.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 95-521, Ethics in Government Act of 1978 and Pub. L. 101-194, Ethics Reform Act of 1989, as amended.

PURPOSE(S):

These records are maintained to meet the requirements of the Ethics in Government Act of 1978 and the Ethics Reform Act of 1989, as amended, regarding the filing of financial status reports, reports concerning certain agreements between the covered individual and any prior private sector employer, ethics agreements, and the preservation of waviers issued to an officer or employee pursuant to section 208 of title 18 and certificates of divestiture issued pursuant to section 502 of the Ethics Reform Act. Such statements and related records are required to assure compliance with these acts and to preserve and promote the integrity of public officials and institutions.

Note: When an agency is requested to furnish such records to the Director of the Office of Government Ethics, such a disclosure is to be considered as made pursuant to provisions of the Privacy Act (5 U.S.C. 552a(b)(1)).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To disclose any and all of the information furnished by the reporting official, in accordance with provisions of section 205 of the Ethics in Government Act of 1978 (section 105 of the Ethics Act, as amended), to any requesting person.

b. To disclose, in accordance with section 105 of the Ethics in Government Act, as amended, and subject to the limitations contained in section 208(d)(1) of title 18, U.S.C., any determination granting an exemption pursuant to 208(b)(1) or 208(b)(3) of title 18, U.S.C., to any requesting person.

Note: No disclosures can be made pursuant of this new routine use until on or after March 23, 1990.

c. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation or civil or criminal law or regulation.

d. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, either when the Government is a party to a judicial or administrative proceeding or in order to comply with the issuance of a subpoena.

e. To disclose information to any source when necessary to obtain information relevant to a conflict-of-interest investigation or determination.

f. By the National Archives and Records Administration or the General Services Administration in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

g. To disclose information to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A-19.

h. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders, automated media, or on microfiche or microfilm.

RETRIEVABILITY:

These records are retrieved by the name and social security number of the individual on whom they are maintained.

SAFEGUARDS:

These records are maintained in filing cabinets to which only authorized personnel have access.

RETENTION AND DISPOSAL:

These records are generally maintained for a period of 6 years after filing, except when filed by a nominee for an appointment requiring confirmation by the Senate when the nominee is not appointed and Presidential and Vice-Presidential candidates who are not elected. In these cases, the record is destroyed 1 year after the date the individual ceased being under Senate consideration for appointment or is no longer a candidate for office. Further, if the records are needed in an ongoing investigation, they will be retained until no longer needed in the investigation. Destruction is by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Government Ethics, Suite 500, 1201 New York Avenue, NW, Washington, DC 20005-3917.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact, as appropriate:

a. For records filed directly with the Office of Government Ethics, contact the system manager.

b. For records filed with designated agency ethics officials or the Secretary concerned, contact the designated agency ethics official or Headquarters, department or agency, Washington, DC (ZIP code).

c. For records filed with the Federal Election Commission by candidates for President or Vice President, contact the Staff Director, Federal Election Commission, 999 E Street, NW, Washington, DC 20463.

Individuals wishing to inquire whether this system of records contains information about them should contact the appropriate office listed above. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Department or agency and component with which employed or proposed to be employed.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to their records should contact the appropriate office as shown in the Notification Procedure section. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Department or agency and component with which employed or proposed to be employed.

CONTESTING RECORD PROCEDURES:

Since the information in these records is updated on a periodic basis, most record corrections can be handled through established administrative procedures for updating the records However, individuals can obtain information on the procedures for contesting the records under the provisions of the Privacy Act by contacting the appropriate office shown in the Notification Procedure section.

RECORD SOURCE CATEGORIES:

Information in this system of records is provided by:

a. The subject individual or by a designated person, such as a trustee, attorney, accountant, or relative.

b. Federal officials who review the statements to make conflict of interest determinations.

c. Persons alleging conflict of interests and persons contacted during any investigation of the allegations.

OGE/GOVT-2

SYSTEM NAME:

Confidential Statements of Employment and Financial Interests.

SYSTEM LOCATION:

Individual agency ethics offices or other designated agency offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Officers and employees who are required by their agency pursuant to or under Executive Orders 12674, 12565 and 11222 (as amended), 5 CFR part 735, or section 207 of the Ethics in Government Act of 1978, or section 107 of the Ethics Act, as amended, to file such statements. The system includes both former and current Federal employees in these categories.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain statements and amended statements of personal and family holdings and other interests in business enterprises and real property; listings of creditors and outside employment; opinions of counsel; and other information related to conflict of interest determinations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Orders 12674, 12565 and 11222 (as amended); Pub. L. 95-521, Ethics in Government Act and Pub. L. 101-194, Ethics Reform Act of 1989, as amended.

PURPOSE(S):

These records are maintained to meet the requirements of or under Executive Orders 12674, 12565 and 11222, 5 CFR part 735, agency regulations thereunder, as well as section 207 of the Ethics in Government Act of 1978 (section 107 of the Ethics Act, as amended by the Ethics Reform Act of 1989), concerning the filing of employment and financial interest statements. Such statements are required to assure compliance with the standards of conduct for Government employees contained in the Executive Orders, agency regulations and title 18, U.S.C., and to determine if a conflict of interest exists between the employment of individuals by the Federal Government and their personal employment and financial interests. To enable the Director of the Office of Government Ethics to ensure that these purposes are met, agency maintained records are to be made available to that office on request.

Note. When an agency is requested to furnish such records to the Director of the Office of Government Ethics, such a disclosure is to be considered as made pursuant to provisions of the Privacy Act (5 U.S.C. 552a(b)(1)).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These statements and amended statements required by or pursuant to Executive Orders 12674 (Part II), 12565, and 11222 (Part IV), as amended, 5 CFR Part 735, agency regulations thereunder, and/or section 207 of the Ethics in Government Act of 1978 (section 107 of the Ethics Act, as amended), are to be held in confidence and no informations therefrom shall be disclosed except:

a. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the disclosing agency becomes aware of an indication of a violation or potential violaiton of civil or criminal law or regulation.

b. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, either when the Government is party to a judicial or administrative proceeding or in order to comply with the issuance of a subpoena.

c. To disclose information to any source when necessary to obtain information relevant to a conflict-of-interest investigation or determination.

d. To or by the National Archives and Records Administration or the General Services Administration in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

e. To disclose information to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A-19.

f. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders, in automated media, or on microfiche or microfilm.

RETRIEVABILITY:

These records are retrieved by the name and social security number of the individual on whom they are maintained.

SAFEGUARDS:

These records are located in locked metal file cabinets to which only authorized personnal have access.

RETENTION AND DISPOSAL:

These records are disposed of when 6 years old; except that documents needed in an ongoing investigation will be retained until no longer needed in the investigation. Disposal is by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director of the Office of Government Ethics, Suite 500, 1201 New York Avenue, NW, Washington, DC 20005-3917.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the Ethics Officer at the agency where the reports were filed.

Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Department or agency and component with which employed or proposed to be employed.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to their records should contact the Ethics Officer at the agency where the reports were filed. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Department or agency and component with which employed or proposed to be employed.

CONTESTING RECORD PROCEDURES:

Since the information in these records is updated on a periodic basis, most record corrections can be handled through established administrative procedures for updating records. However, individuals can obtain information on the procedures for contesting the records under the provisions of the Privacy Act by contacting the Ethics Officer at the agency where the reports were filed.

RECORD SOURCE CATEGORIES:

Information in this system of records is provided by:

a. The subject individual or by a designated person such as a trustee, attorney, accountant, or relative.

b. Federal officers who review the statements to make conflict of interest determinations.

c. Persons alleging conflicts of interests and persons contacted during any investigation of the allegations.

[FR Doc. 90-4017 Filed 2-21-90; 8:45 am]

BILLING CODE 6345-01-M

POSTAL RATE COMMISSION

[Docket No. A90-6; Order No. [illegible]]

Dunn, Louisiana 71236 (James Cavet, Petitioner); Notice and Order Accepting Appeal and Establishing Procedural Schedule

Issued February 13, 1990.

Before Commissioners: Henry R. Folsom, Vice-Chairman; John W. Crutcher; W.H. "Trey" LeBlanc III; Patti Birge Tyson.

Docket number: A90-6

Name of affected post office: Dunn, Louisiana 71236

Name(s) of petitioner(s): James Cavet

Type of determination: Closing

Date of filing of appeal papers: February 7, 1990

Categories of issues apparently raised:

1. Effect on postal services [39 U.S.C. 404(b)(2)(C)].
2. Effect on the community [39 U.S.C. 404(b)(2)(A)].
3. Economic savings [39 U.S.C. 404(b)(2)(D)].

Other legal issues may be disclosed by the record when it is filed; or, conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition, in light of the 120-day decision schedule [39 U.S.C. 404(b)(5)], the Commission reserves the right to request of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the petitioner. In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference any such memoranda previously filed.

The Commission orders:

(A) The record in this appeal shall be filed on or before February 22, 1990.

(B) The Secretary shall publish this Notice and Order and Procedural Schedule in the Federal Register.

By the Commission.

Charles L. Clapp,

Secretary.

Appendix

February 7, 1990—Filing of Petition.

February 13, 1990—Notice and Order of Filing of Appeal.

March 5, 1990—Last day of filing of petitions to intervene [*see* 39 CFR 3001.111(b)].

March 14, 1990—Petitioner's Participant Statement or Initial Brief [*see* 39 CFR 3001.115 (a) and (b)].

April 3, 1990—Postal Service Answering Brief [*see* 39 CFR 3001.115(c)].

April 18, 1990—Petitioner's Reply Brief should Petitioner choose to file one [*see* CFR 3001.115(d)].

April 25, 1990—Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings [*see* 39 CFR 3001.116].

June 7, 1990—Expiration of 120-day decisional schedule [*see* 39 U.S.C. 404(b)(5)].

[FR Doc. 90-4002 Filed 2-21-90; 8:45 am]

BILLING CODE 7710-FW-M

DEPARTMENT OF STATE

Advisory Committee on Oceans and International Environmental and Scientific Affairs; Partially Closed Meeting

Department of State officials responsible for the foreign policy aspects of nuclear non-proliferation, missile technology, global climate change, and oceans and space policy issues will be present at 2:30 p.m. Monday, March 5 in Room 1406 of the Department of State at 2201 C Street, NW., Washington, DC to discuss key issues and problems concerning the above matters. This session, which is being convened by the Department's Advisory Committee on Oceans and International Environmental and Scientific Affairs, will be open to the public and will last until 4:30 p.m. Members of the general public will be admitted to the session to the limits of seating capacity and will be given the opportunity to participate in discussions according to the instructions of the Chairperson. In that regard, entrance to the Department of State building is controlled, and entry will be facilitated if arrangements are made in advance of the meeting. Prior to the meeting, persons who plan to attend should so advise the Office of Advance Technology by contacting William Moody, telephone (202) 647-4935. All attendees must use the C street entrance to the building.

Officers of the Bureau of Oceans and International Environmental and Scientific Affairs, along with the Department of State's Advisory Committee on Oceans and International Environmental and Scientific Affairs, will meet at 8:30 a.m. on Monday, March 5 in a session which will not be open to the public. This session will include discussion of classified material under 5 U.S.C. 552b(c)(1) and U.S.C. 552b(c)(9)(b). The disclosure of classified material and revelation of considerations which go into policy development could adversely affect the ability of the United States to achieve its foreign policy objectives. The purpose of these discussions will be to elicit views and discuss issues relating to nuclear non-proliferation, missile technology, global climate change, and oceans and space policy issues. This portion of the meeting will include classified briefings and discussion of classified documents pursuant to Executive Order 12356.

Requests for further information should be directed to William Moody of the Office of Advanced Technology, of the Department of State's Bureau of Oceans and International Environmental and Scientific Affairs. He may be reached at telephone (202) 647-4935.

Dated: February 15, 1990.

Frederick M. Bernthal,

Chairman, Advisory Committee on Oceans and International Environmental and Scientific Affairs.

[FR Doc. 90-4016 Filed 2-21-90; 8:45 am]

BILLING CODE 4710-09-M

Don -
FYI

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

March 15, 1994

MEMORANDUM TO: Roger C. Altman
John E. Ryan

FROM: Peter E. Knight

SUBJECT: Outstanding letters from Members of House Banking Committee

All RTC Divisions and Field Offices have been alerted that all correspondence from Members of the House Banking Committee must be answered by March 22.

Attached is a listing of the outstanding letters.

Attachment

cc: Ms. Booker
Ms. Cunninghame
Mr. Kolatch
Ms. Kulka
Mr. Kusinski
Mr. Horton
Mr. Lynn
Mr. Ramey
OGR Reps.
OGR Staff

801 17th Street, N.W. Washington, D.C. 20434

OUTSTANDING CONGRESSIONAL CORRESPONDENCE FOR HOUSE BANKING COMMITTEE

HOUSE BANKING	LETTER DATED	DUE DATE	SUBJECT	STATUS
Chairman *Gonzalez 12727	01/19/94	02/04/94	Impact of sale of Homefed	With Kulka
*Gonzalez 12923	03/03/94	03/17/94	Access to Documents relating to 3 FSC contracts	Awaiting approval of draft by Kulka/ Cunninghame--Interim sent 3/10/94
Ranking Minority *Leach 12922	03/01/94	03/17/94	Has CEO conduct violated ethics guidelines	With Kulka/ Kusinski OGE To Respond
*Leach 12929	03/01/94	03/08/94	Altman meeting with White House officials-should resign all RTC responsibilities	With Kulka
*Leach 13005	03/11/94	03/29/94	Listing of Congressional briefings on Madison	With OGR/Knight
Bacchus 12669	07/28/93	02/07/94	MWOB Program-(Re policy on disabilities)	With Kulka
Bacchus 12905	02/12/94	03/15/94	Constituent-Leibert	With Atlanta
Baker 12986	03/11/94	03/25/94	Constituent-Fayard	With Denver
Flake 12461	12/10/93	12/23/93	MWEDs Joint Venture Partnership	With Kulka

HOUSE BANKING	LETTER DATED	DUE DATE	SUBJECT	STATUS
Flake 12999	03/10/94	03/18/94	Rent Control and Statistics	With Valley Forge
Frank 12664	01/18/94	02/07/94	Re auction business to small firms	With Horton
Frank 12968	03/09/94	03/18/94	Directors of Far West S&LA, FA	With Kulka
Gutierrez 12937	03/02/94	03/21/94	Constituent-Kulas	With Ramey
Johnson 12641	01/10/94	02/02/94	Constituent-Garza	With Horton
Johnson 12970	03/02/94	03/11/94	Constituent-Davis	With Ms. Booker
Maloney 12935	03/03/94	03/21/94	NY City Rent Control	With Legal
Mfume 12920	02/15/94	03/16/94	Question re minority bidder buying branch of Irvington FSB	With Ramey
Roybal-Allard 12879	02/23/94	03/10/94	Dallas FSC contract	With John Lynn
Watt 12860	02/10/94	03/07/94	Constituent-Gleiberman	With OGR

RT-12962
cc: Mr. Ryan
Standard Distribution
Mr. Adair
Ms. Kulka
Mr. Knight
Ms. Hinton
Ms. Kauper
Ms. Kruse
OGR Reps & Staff

RTC
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March 11, 1994

Honorable Alfonse M. D'Amato
Ranking Minority Member
Committee on Banking, Housing,
and Urban Affairs
United States Senate
Washington, D.C. 20510

Dear Senator D'Amato:

Thank you for your letter of March 2 concerning Interim CEO Roger C. Altman's assurance at the Senate Banking Committee hearing held on February 24 that he would request the RTC Inspector General to initiate a review of the report dated February 8 by the Office of Contract Oversight and Surveillance (OCOS) on the Rose Law Firm.

Since Mr. Altman recused himself, he has delegated all of his authority and all of his responsibilities concerning any matter connected to or arising out of Madison Guaranty Savings and Loan Association to me. As a result of this delegation of authority, I sent the enclosed memorandum to Mr. John Adair, the RTC's Inspector General, requesting the investigation of the OCOS report.

In the future, you should address any questions you may have on matters concerning or relating to Madison Guaranty to me.

We hope this information is helpful to you. Please let me know if we can be of further assistance.

Sincerely,

John E. Ryan
Deputy CEO

Enclosures

801 17th Street, N.W. Washington, D.C. 20434

To: Clark W. Blight@IG1@RTCDC
Cc: ajk
Bcc:
From: Donald L. Rosholt@Ethics@RTCDC
Subject: Press call
Date: Friday, March 4, 1994 9:24:09 EST
Attach:
Certify: N
Forwarded by:

In Tuesday's Post, on the White House and RTC discussions regarding the Whitewater matter, there is a statement that "a RTC guy" called Lisa Caputo in late October or early November informing her "of press inquiries there [RTC] involving Whitewater and Madison." The paper said she returned a call made to her. It may be appropriate for your office to seek to identify the individual at the RTC who initiated this call, the subject of the discussion, and any information that was conveyed. Given the OGE investigation called for by Secretary Benson, it seems appropriate for the RTC to investigate this issue as well. I am concerned about the appropriateness of the call and the authority upon which the "RTC guy" may have acted.

If you have already determined the identity of the individual and the nature of the call, please let our office know if any standard of conduct regulations were violated or if such a call is routine.

Thanks

RTC
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Resolving The Crisis
Restoring The Confidence

February 25, 1994

MEMORANDUM

TO: JOHN E. RYAN, DEPUTY CHIEF EXECUTIVE OFFICER
ELLEN KULKA, GENERAL COUNSEL
ARTHUR KUSINSKI, ETHICS OFFICER

FROM: ROGER C. ALTMAN
INTERIM CHIEF EXECUTIVE OFFICER

SUBJECT: Recusal Notice -- Madison Guaranty Savings and Loan

This is to notify you that effective immediately I recuse myself from all matters relating to Madison Guaranty Savings and Loan. All such matters, should they arise, should be referred to Mr. Ryan for resolution or appropriate handling. I hereby delegate to him or his designee full authority to act on such matters.

cc: John M. Buckley, Secretary, OSEC

801 17th Street, NW Washington, DC 20434

RTC
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Restoring The Confidence

March 4, 1994

TO: Members of the RTC Executive Committee

FROM: Arthur J. Kusinski Arthur J. Kusinski
Ethics Officer and Designated Agency Ethics Official

SUBJ: Recusal Notice - Roger B. Altman

Attached please find a copy of Mr. Altman's recusal notice regarding Madison Guaranty Savings and Loan.

801 17th Street, N.W. Washington, D.C. 20434

To: Ellen B. Kulka@Legal-sc@RTCDC
Cc: dlr, ,Peter E. Knight@OGR@RTCDC
Bcc:
From: Arthur J. Kusinski@Ethics@RTCDC
Subject: Leach letter of March 1
Date: Thursday, March 3, 1994 16:54:06 EST
Attach:
Certify: N
Forwarded by:

I told you this morning that someone on the Hill had asked for all our ethics publications -- regs, policies, directives, etc., but I couldn't remember who it was. It was Senator D'Amato's office, not Leach.

Leach in fact has the wrong regs. The regulations he cites in his letter of March 1 are the old RTC ethics regulations which have since been supplanted by the new OGE regs and the revised supplemental RTC regulations.

Also, Peter Knight asked me to double-check with you about my talking toTreasury about the Leach letter in light of the fact that Altman is now recused from Madison G. matters. I don't see how this would affect our coordinating who is going to be answering the letter, but as a courtesty to Peter, I said I would check with you.

Finally, Peter asked that we, RTC, prepare a response to the Leach letter in case we need to have one. That's no problem. However, in assembling a response, what Mr. Altman told the Senate Banking Committee last Thursday may not be enough for us to opine on the appropriateness of his meeting at the White House (on the other hand, it may be -- we're getting the transcripts from Peter). But if it isn't, the possibility arises that we may have to ask Mr. Altman for more information about this meeting. I realize how sensitive this may be if it comes to that, and you need to be thinking about what we do under such circumstances. We will do nothing, of course, without first clearing with you and getting your direction.

Art

RTC
RESOLUTION TRUST CORPORATION
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Restoring The Confidence

March 2, 1994

MEMORANDUM TO: John Adair
Inspector General

FROM: John E. Ryan
Deputy Chief Executive Officer

SUBJECT: Investigation of Report Dated Feb. 8, 1994 of the Office of Contact Oversight and Surveillance titled Rose Law Firm RTC/OCOS-T94002-WA

As you know, Interim CEO Roger Altman, in his appearance at the semi-annual hearing on February 24, 1994 of the Resolution Trust Corporation/Thrift Depositor Oversight Board conducted by the Senate Committee on Banking, Housing and Urban Affairs, said that he would request that the RTC Inspector General review the report dated Feb. 8, 1994 of the Office of Contract Oversight and Surveillance titled Rose Law Firm RTC/OCOS-T94002-WA (copy attached). Since that date, Mr. Altman has recused himself and has delegated all of his authority and all of his responsibilities concerning any matter connected to or arising out of Madison Guaranty Savings and Loan Association to me. Therefore, I am requesting that you conduct an investigation, in accordance with your normal operating procedures, of the substance addressed by the report.

Furthermore, I am requesting that you also audit fees paid to the Rose Law Firm by the RTC on any matter, or by the FDIC on any matter where the FDIC retained the Rose Law Firm, (i) as managing agent for the FSLIC, or (ii) as the legal arm of the RTC before this corporation maintained its own legal division. Please direct your report to the General Counsel, Ellen B. Kulka.

Attachment

cc: Kulka

Leach letter issues – For RTC ?

① Altman's appointment as CEO for 13 months
RTC has had its independence [illegible]

~~Kulka~~
Treas/
DOJ
2 [illegible] [illegible] [illegible]
[illegible] [illegible] day

affecting the potential [illegible]
[illegible] ③ Mr. Altman entered into / discussions with W.H. on
Madison matters. / Testimony date Mar 3[illegible]
need copy of testimony

W.H. [illegible] discussed and status of [illegible]
Date of Meeting needed

Treas/
W.H. [illegible] Mr. Altman recommended status of [illegible] be
[illegible] on 5/4/93

RTC ⑥ 1605. 7, Appearance (2635.101, 502, 701, 7?2)

RTC ⑦ 1605. 10, [illegible] of Info. (2635.101, 701, 703, 902)

Non-RTC issues

W.H.
OGE ⑧ 100.735-4

" ⑨ 100.735-8

" ⑩ 100.735-21

WH/T 11 A[illegible]

416-2461

HENRY B. GONZALEZ, TEXAS, CHAIRMAN
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BRUCE F. VENTO, MINNESOTA
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JOSEPH P. KENNEDY II, MASSACHUSETTS
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U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
ONE HUNDRED THIRD CONGRESS
2129 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6050

JAMES A. LEACH, IOWA
BILL McCOLLUM, FLORIDA
MARGE ROUKEMA, NEW JERSEY
DOUG BEREUTER, NEBRASKA
THOMAS RIDGE, PENNSYLVANIA
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MIKE HUFFINGTON, CALIFORNIA
MICHAEL CASTLE, DELAWARE
PETER KING, NEW YORK

BERNARD SANDERS, VERMONT

(202) 225-4247

RECEIVED RTC
MAR 1 4 27 PM
OFFICE OF

**** FACSIMILE ****

DATE: March 1, 1994

TO: Mr. Art Kusinski

FROM: Congressman James A. Leach

Number of Pages to Follow: 5

Enclosures and the orginal letter are being sent via mail.

HENRY B. GONZALEZ, TEXAS, CHAIRMAN

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MICHAEL CASTLE, DELAWARE
PETER KING, NEW YORK

BERNARD SANDERS, VERMONT

(202) 225-4247

March 1, 1994

Mr. Bernard Nussbaum
Counsel to the President
The White House
Washington, D.C. 20500

Mr. Stephen Potts
Director
Office of Government Ethics
1201 New York Avenue, N.W.
Suite 500
Washington, D.C. 20005-3917

Ms. Jean Hanson
General Counsel
Room 3000
Department of the Treasury
Washington, D.C. 20220

Mr. Art Kusinski
Chief Ethics Officer
Resolution Trust Corporation
801- 17th Street, N.W.
Washington, D.C. 20434

Dear Messrs. and Madam:

On February 3, 1994, I wrote to the Interim CEO of the Resolution Trust Corporation (RTC), Mr. Roger Altman, asking that he seek appropriate counsel as to whether he should recuse himself from matters regarding Madison Guaranty Savings and Loan. As I noted in my February 3 letter to Mr. Altman: "...it would appear ethically questionable for a political appointee of the Department of Treasury to make decisions for an independent federal agency when the President may be implicated in enforcement and civil actions."

On February 23 I received a lengthy response to my letter which ended with the following sentence: "I trust this letter fully addresses your concerns" [see attached letters]. Regrettably, the letter did not fully address the concerns expressed in my letter of February 3. Moreover, it would appear that the concerns raised in my letter were confirmed when Mr. Altman testified last week before the Senate Banking Committee that he had entered discussions with

Page 2
March 1, 1994

the White House on matters affecting the President's potential personal liabilities. Treas

While it is dubiously credible to think Mr. Altman would have gone to the White House to discuss only the statute of limitations, in that a mere memo would have sufficed, it bears noting again the irony that it was Mr. Altman who on May 4, 1993, strongly recommended by letter to the Chairman of the House Banking Committee that the statute of limitations for civil lawsuits against S&L wrongdoers not be extended. 4 T/H 5 T/H

Mr. Altman's meeting with White House staff concerning the RTC's actions in the Madison case is an ethical umbrage. Even though Mr. Altman has now decided it proper to recuse himself from the Madison case, the issue at hand is whether his conduct violated federal ethics guidelines or strictures, as promulgated by the RTC. These guidelines are listed under 12 CFR § 1605.7 and include the following: 3 Treas RTC

These guidelines [illegible] rescinded [illegible] Feb 1993 [illegible] adoption [illegible] 2635 §22C [illegible] Fed Reg 2/18/1993 2635.101 [illegible] 2635.502 [illegible]

> "No employee shall engage in any action, which might result in, or create the appearance of ...
>
> (b) giving preferential treatment to any person;...
>
> (d) losing complete independence or impartiality;
>
> (e) making an RTC decision outside official channels; or,
>
> (f) adversely affecting the public's confidence in the integrity of the RTC."

2635.101 702 703 702

Also, 12 CFR § 1605.10 states that an RTC "employee may not, directly, or indirectly, use or allow the use of information which is obtained as a result of his or her RTC employment but which is not available to the general public in order to engage in any financial transaction or to further a private interest." RTC

In addition, another issue appears to be an abuse of the spirit of 5 U.S.C 3348. In a technical sense, this statute allows the President to name a temporary agency head to fill a vacancy until a nominee is confirmed by the Senate. In the event a nominee is rejected by the Senate or his/her name is withdrawn, 5 U.S.C. 3348 provides that the vacancy may be filled for not more than 120-days by an individual designated by the President. DOJ/Treas

In the case of Mr. Altman's appointment as interim CEO of the RTC, we have a situation where a political appointee of the Treasury Department has served as the head of an independent agency for approximately 13 months. To some, this circumstance leaves the impression that Mr. Altman's term of office might have been intended to coincide with the running of the statute of limitations for civil lawsuits which could affect the White House.

Now that the statute of limitations has been extended, a skeptic might wonder if further legal machinations will occur as a means of maintaining Mr. Altman's tenure as interim CEO of the RTC. After all, no nominee to head the RTC has been formally presented to the Senate since Mr. Tate withdrew his name from consideration on November 30, when he complained of gross mismanagement at the RTC.

Tr[illegible] / White House

It is my judgement that the RTC has had its independence compromised and that it is no longer sufficient for Mr. Altman to recuse himself from the Madison case. It is all too apparent that his shadow looms large at the agency and that his immediate resignation from all responsibilities at the RTC would appear to be the only ethical option at this time.

In addition, just as one party should not have requested the meeting, the other party should not have accepted it. In this regard, I hereby request a review of whether White House officials, Bernard Nussbaum, Margaret Williams, and Harold Ickes, violated any ethical guidelines. Here I would call your attention to the following White House guidelines:

3 CFR § 100.735-4 General standards of conduct. - ⑧ W.H/OGE

> "(c) In all circumstances employees shall conduct themselves so as to exemplify the highest standards of integrity. An employee shall avoid any action, whether or not specifically prohibited by this subpart, which might result in, or create the appearance of:
>
> (1) Using public office for private gain;
>
> (2) Giving preferential treatment to any person;
>
> (3) Impeding Government efficiency or economy;
>
> (4) Losing complete independence or impartiality;
>
> (5) Making a Government decision outside official channels; or
>
> (6) Affecting adversely the confidence of the public in the integrity of the Government."

3 CFR § 100.735-8 Conflicts of interest. ⑧ W.H/OGE

Page 4
March 1, 1994

> "(a) A conflict of interest may exist whenever an employee has a substantial or private interest in a matter which involves his duties and responsibilities as an employee. The maintenance of public confidence in Government clearly demands that an employee take no action which would constitute the use of his official position to advance his personal or private interest. It is equally important that each employee avoid becoming involved in situations which present the possibility, or even the appearance, that his official position might be used to his private advantage."

[illegible]

3 CFR § 100.735-21 General conduct prejudicial to the Government.

> "An employee shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government."

With regard to the second of the above citations, it would appear self-apparent that "personal or private interest" would apply to issues of individual job security or promotion. In addition, with regard to the third, the adjective "dishonest" would presumably apply to the issuance of statements of fact that prove untrue. Here, I bring to your attention, Mr. Nussbaum's February 10, 1994 letter to Reps. Lightfoot, Wolf, and Istook. I would also ask that the possibility be probed that the meeting might have had the effect of being "prejudicial" to the government's case in attempts to recover taxpayer losses related to the failure of Madison Guaranty. 735.8

[illegible]

I would specifically request that the Office of Government Ethics and the Chief Ethics Officer of the White House, which I understand to be Mr. Nussbaum or his designee, formally review and provide me with a response as to whether the meeting between the three White House officials and Mr. Altman violated any guidelines of government ethics, regulations, or law. In particular, there is an implicit appearance that public officials dealt with the private matters of the President. In this regard, I would hereby request a list of any individuals who participated or attended at any point in the discussions and from each any notes or recordings of the meeting or meetings at the White House or elsewhere on this matter. [illegible]

Please provide a full response to the issues raised in this letter regarding the White House as well as Mr. Altman by Monday, March 21, 1994. Thank you for your time and consideration of this matter.

Sincerely,

James A. Leach
Ranking Member

cc: Mr. Roger Altman
Interim CEO
Resolution Trust Corporation

Resolution Trust Corporation

FAX COVER SHEET

DATE: 2/23/94

TO: DENNIS FOREMAN
DEPUTY GENERAL COUNSEL
622-2882

FROM: ART KUSINSKI
OFFICE OF ETHICS

FAX NUMBER: (202) 416-2481
TELEPHONE #: (202) 416-2157 (ask for Robin McGill)

TOTAL PAGES: 5 (INCLUDING THIS PAGE)

COMMENTS: Per your request.
Art

Notice: For our records please call upon receipt of this message atthe aforementioned telephone number. If for any reason this message is inadvertently sent to you, please be advised that dissemination, distribution, or copying of this communication is prohibited. It would be greatly appreciated if the original message is returned to us at the address below (via U.S. Mail). Thanking you in advance.

801 17th Street, NW ■ Washington, DC 20434-0001

TEL:　　　　　　　　　　　　Feb 23'94　15:59

Transmit Confirmation Report

No. : 007
Receiver : 96222882
Transmitter :
Date : Feb 23'94 15:59
Time : 02'07
Mode : Norm
Pages : 05
Result : OK

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

February 23, 1994

Honorable Alfonse M. D'Amato
Ranking Minority Member
Committee on Banking, Housing,
and Urban Affairs
United States Senate
Washington, D.C. 20510

Dear Senator D'Amato:

Interim CEO Roger C. Altman has asked me to respond to your letter dated February 18, 1993, requesting copies of records pertaining to Madison Guaranty Savings and Loan. As you may know from our discussions with your staff, the Resolution Trust Corporation is concerned that disclosure of different categories of information covered by your blanket request could harm the RTC's future position with respect to possible civil litigation; jeopardize the work of independent Counsel Robert Fiske's criminal investigation; result in the release of personal or corporate financial information in violation of Federal law; or, constitute a waiver of one or more privileges to which the agency is entitled.

I have instructed RTC personnel to work with your staff to provide you with all the documents that we can provide within the operating strictures posed by your request. Despite the RTC's desire to cooperate with you, a review of relevant statutes and case law has left the RTC with no other option than to take the position that a Ranking Minority Member of the Senate Committee on Banking, Housing, and Urban Affairs has the authority of an individual Member of Congress and therefore may only obtain information that would be otherwise available to the public pursuant to the Freedom of Information Act. Therefore, the RTC believes that disclosing privileged information to you could raise questions of waiver and could detrimentally affect any further legal actions that may be contemplated regarding Madison.

Today, your staff received over 6,500 pages of documents which are listed in an enclosure to this letter. The RTC has already provided your staff with extensive inventories of Madison-related documents. Since there are over 300,000 pages of Madison-related documents, it would be helpful to have your staff narrow your request to specific documents or classes of documents. At that point, RTC personnel will discuss with your staff how we may be able to meet your request.

801 17th Street, N.W. Washington, D.C. 20434

Honorable Alfonse M. D'Amato
Page 2

The RTC will continue to work with your staff to make available to you as many records as possible within the limitations discussed above.

Sincerely,

John Ryan

John E. Ryan
Deputy CEO

Enclosure

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

February 23, 1994

Honorable Alfonse M. D'Amato
Ranking Minority Member
Committee on Banking, Housing,
and Urban Affairs
United States Senate
Washington, D.C. 20510

Dear Senator D'Amato:

This letter is in response to your letter to Interim CEO Roger C. Altman dated February 18, 1994, requesting copies of all recusal letters and ethics agreements entered into by Messrs. Albert V. Casey and Roger C. Altman. On February 18, 1994, I had sent you a response to your February 8th request concerning when the RTC's CEO has recused himself from participation in RTC matters.

For your information, we have enclosed copies of:

1. Mr. Albert V. Casey's Ethics Agreement, two recusal memoranda, and a recusal from participation in matters having an impact upon his creditors. With regard to the recusal from matters involving a member of his immediate household, there is no documentation as it was an oral recusal from Mr. Casey to the RTC's Ethics Officer and designated agency Ethics Official.

2. A memorandum from Mr. Arthur Kusinski to the Executive Committee of the RTC identifying items from which Mr. Altman will recuse himself as the RTC's Interim CEO.

3. A letter from Mr. Altman to Mr. Dennis Foreman at the Department of the Treasury indicating the matters from which he will withdraw, resign, or recuse himself. This document is considered to be his Ethics Agreement with the Treasury Department as the Deputy Secretary. Although it does not directly relate to the RTC, such actions may be applicable to the RTC as well as Treasury. Mr. Altman did not enter into a separate agreement with the RTC at the time he was appointed as Interim CEO.

801 17th Street, N.W. Washington, D.C. 20434

These documents are being furnished to you with the understanding that they will be treated in a confidential manner.

Sincerely,

Peter E. Knight
Director
Office of Governmental Relations
(202) 416-2116

Enclosures

ENCLOSURE

ETHICS AGREEMENT

I, Albert V. Casey, selectee for appointment to the position of Chief Executive Officer of the Resolution Trust Corporation, hereby agree that, should I be formally appointed to that position, I will take or cause to be taken the following actions with respect to my financial interests and obligations, in order to avoid any actions as Chief Executive Officer which might result in or create the appearance of a conflict of interest:

1. Within 90 days of assumption of the position of Chief Executive Officer, I will divest myself of ownership of shares of stock of the American Express Company, Deutsche Bank, Occidental Petroleum Corporation, and Sabine Royalty Trust.

2. Prior to entering upon my duties as Chief Executive Officer, I will resign my directorships with AMR Corporation/American Airlines, Inc., Colgate-Palmolive Company, Memorex Telex, N.V., and Sears, Roebuck & Company.

3. During my tenure as Chief Executive Officer of the Resolution Trust Corporation, I will recuse myself from participating in any particular matter which could have a direct and predictable impact upon the airline industry or any entity in which I own stocks or other securities, or hold a partnership or other financial interest, including financial interests derived from my pensions with AMR Corporation, Colgate-Palmolive Company, Sears, Roebuck & Company, and The Times Mirror Company, other than the formulation and adoption of policies of general applicability to the management and resolution of intsitutions under the jurisdiction of the Resolution Trust Corporation.

4. During my tenure as Chief Executive Officer of the Resolution Trust Corporation, I will recuse myself from participating in decisions or actions having specific impact on any Federally-insured depository institution from which I have an extension of credit, other than the formulation and adoption of policies of general applicability to the management and resolution of institutions under the jurisdiction of the Resolution Trust Corporation and except as permitted by section 1605.16 of the standards of conduct regulation, 12 C.F.R. Part 1605.

5. During my tenure as Chief Executive Officer of the Resolution Trust Corporation, I will not use, or allow [illegible] parties to use, my position in any manner to further the [illegible] or fund-raising activities of any educational, religious, [illegible] public service organization to which I belong. I further [illegible] that I will not accept compensation or honorariums from [illegible] organizations.

6. I further agree that for a period of two years following appointment by the RTC Oversight Board, I will recuse myself from participating in decisions or actions having a specific impact upon Memorex Telex, N.V. or involving matters in which any officer or director thereof makes an appearance before the Resolution Trust Corporation, other than general rulemaking and the formulation and adoption of policies of general applicability to the management and resolution of institutions under the jurisdiction of the Resolution Trust Corporation.

7. I further agree that immediately upon my appointment to the position of Chief Executive Officer for the Resolution Trust Corporation, or within 90 days thereafter, whichever is applicable under this agreement, I will promptly furnish to the Executive Secretary and Designated Agency Ethics Official of the Federal Deposit Insurance Corporation, who also acts as Ethics Counselor for the Resolution Trust Corporation, written evidence of my resignation from those positions from which I have agreed to resign and of my divestiture of ownership of those stocks, securities, and partnership interests of which I have agreed to divest myself.

8. I further agree that, during my tenure as Chief Executive Officer of the Resolution Trust Corporation, prior to the purchase or sale of any stocks, securities, or partnership interests, I will obtain the approval of the RTC Ethics Counselor, who will consult with the Director of the RTC Capital Markets Division to determine whether such purchase or sale would result in or create the appearance of a conflict of interest.

IN WITNESS WHEREOF, I have hereunto subscribed my name in the City of Washington, District of Columbia, this _____ day of __________, 1991.

Subscribed to and sworn before me this 9th day of Octob 1991.

(SEAL)

Notary Public
My Commission Expires: 2/29/9

Resolution Trust Corporation

May 14, 1992

TO: Arthur J. Kusinski
Ethics Officer

FROM: Albert V. Casey, President and CEO

SUBJECT: Recusal Notice -- Indemnification

This is notify you that effective immediately I am recusing myself from all matters involving the indemnification of the President and CEO in the matter of Davidson v. Taylor, et. al., No. 91-4543 EFL (N.D. Cal. filed April 21, 1992). All such matters, should they arise, should be referred to the Executive Committee for resolution or appropriate handling. I hereby delegate to the Executive Committee full authority to act on my behalf.

CC: Mr. Jacobs
Mr. Cooke
Mr. Kelly
Mr. Roelle
Mr. Buckley

RTC
Resolution Trust Corporation

April 10, 1992

MEMORANDUM TO: Arthur J. Kusinski
Ethics Officer

FROM: Albert V. Casey, President and CEO

SUBJECT: Recusal Notice -- First RepublicBank

This is to notify you that, effective immediately and until further notice, I am recusing myself from all matters involving First RepublicBank which may otherwise come before me. All such matters, should they arise, should be referred to Mr. Gerald L. Jacobs, Senior Vice President and General Counsel, for resolution or appropriate handling. I hereby delegate to him full authority to act on my behalf.

cc: Mr. Jacobs
Mr. Cooke
Mr. Kelly
Mr. Roelle
Mr. Geer
Mr. Buckley

801 17th Street, NW ■ Washington, DC 20434-0001

RTC
Resolution Trust Corporation

May 29, 1992

Mr. Albert V. Casey
President and CEO
Resolution Trust Corporation
801 17th Street, N.W.
Washington, D.C. 20434

Dear Mr. Casey:

A review of your Report of Indebtedness, filed as of April 15, 1992, disclosed loans from the following:

Citibank, Sioux Falls, SD;
Centurion, Newark, DE;
Greenwood Trust, Wilmington, DE;
NationsBank, Louisville, KY; and
Bank of America, Orange, CA

While the loans are permitted under the Employee Responsibilities and Conduct Regulations, the fact that these credit arrangements exist may result in or create the appearance of a conflict of interest. You are, therefore, disqualified from participating in any decision, examination, audit, or other action having an impact on these creditors as long as the loans remain outstanding in excess of $10,000, in accordance with 1605.16(c).

Should you have any questions concerning these disqualifications please feel free to call me.

Sincerely,

Arthur J. Kusinski

Arthur J. Kusinski
Ethics Officer
Office of Ethics and Pr[illegible]

801 17th Street, NW ■ Washington, DC 20434-0001

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

March 16, 1993

TO: Executive Committee Members
and
Jack Buckley
Executive Secretary

FROM: Arthur J. Kusinski Arthur J. Kusinski.
Ethics Officer

SUBJECT: Recusals - Roger C. Altman

The attached document identifies the items which Mr. Altman is recused from participating in at the RTC while he serves as the Acting President and Chief Executive Officer of the RTC.

cc: Roger C. Altman
Acting CEO
RTC

Dennis I. Foreman
Acting General Counsel and DAEO
Department of the Treasury

Kenneth R. Schmalzbach
Assistant General Counsel
(Administrative and General Law)
Department of the Treasury

Norman Smith
Attorney
Office of Government Ethics

March 16, 1993

ATTACHMENT

ALTMAN RECUSAL LIST

Company/Entity/Individual	Description
13th Mont Associates (L.P.) -	Montgomery Ward, Peoria, Ill.
A & N Associates LP -	Limited partnership
ANK Corporation -	Ranch, Wyoming
ANR Rem-Cen, Inc. -	Real estate agents and managers
ANR Western Storage Co. -	Real estate holding company
Albany International Corp. -	Paper machine, clothing; fabrics
Allstar Inns, L.P. -	Motel operations
Allstar Inns, G.P., Inc. -	Motel operations
American Express -	Financial services
Applied Microcircuits Corp. -	Integrated circuits and communications equipment manufacturing
Applix, Inc. -	Office automation software
Aristech -	Chemical and polymer products
'rium Development Co., The -	Property management
Avon Products, Inc. -	Cosmetics; jewelry and gifts
Azimuth Corp. -	Electronic parts and aerospace equipment
BFM Advisors, L.P. (BFMA)	
BRW Partners	
Bath Holdings Corp. -	Shipyard
BlackRock Financial Management, L.P. ' -	Investment advisory servivces
Blackstone Capital Partners, L.P. -	Limited partnership
Blackstone Group, L.P., The -	Investment advisory services
Blackstone Group Holdings, L.P. -	Investment banking
Blackstone Management Associates, L.P -	Merchant banking services
Blackstone Family Investment Partnership, L.P. -	Limited partnership
Blackstone Management Partners, L.P. -	Merchant banking services
Blackstone Roberts Group -	Real estate investments
Cadmus Computer Systems, Inc. -	Software technology
Cellular Communications -	Cellular telephone services
Cellular Communications, P.R. -	Cellular telephone services
Centurion Bank -	Financial services
Chase Manhattan Bank, N.A. -	Banking, financial services
Chicago and North Western Holdings Corp. (CNW) -	Rail transportation and shipping (from Imperial Savings Association)

·Indicates that if there is a need to [illegible] affecting this asset to Mr. [illegible] attention, it must be determined whether he still holds the asset before doing so.

Chrysler Corporation -	Motor vehicles and parts; financing and insurance (recusal ends January 20, 1994)
Chrysler Credit -	Financial services (recusal ends January 20, 1994)
Coastal Corp. [2] -	Mining; coal, crude oil and natural gas
Coastal Capital Corp. -	Holding company for finance and insurance subsidiaries
Collins & Aikman Group, Inc. -	Textiles; fabrics; floor and wall coverings; hosiery, retail homecenters; machining and processing of large fan blades, aerospace and aircraft manufacturer
Credence Systems Corp. -	Computer related manufacturing, test equipment for CMOS devices
Cross Timbers Oil Co., L.P.[3] -	Oil and gas
Days Inn -	Hotels; motels; restaurants; franchising
Duracell Holdings Corporation -	Batteries (recusal ends January 20, 1994)
Enterra Corp. -	Oil and gas
Executive Life Insurance Company -	Life insurance (recusal ends January 20, 1994)
Federal Farm Credit Bank -	Financial services
Federated Department Stores -	Department stores; holding company
Ferretec, Inc. -	Microwave components
Fulcrum II, L.P., The -	Limited partnership (see The Rival Co., Bath Holdings, and Ladish Co.)
Georgia Pacific Corp. -	Building products; industrial wood products; Paper and packaging
Great Lakes -	Dredging services
Health Care Inventory Investors -	Health care facilities
Hospital Corporation of America (HCA) -	Hospitals
Hospitality Franchise Systems -	Hotel franchising
Icarus Partners, L.P. -	Excepted investment fund
Infinity Broadcasting Corp. -	Radio broadcasting
Interactive Data GMBH -	Securities advisory services
Intermountain Technology Ventures, L.P. -	Investment partnership in computer equipment
Kelley Oil & Gas -	Oil and gas
LB/LBO Investment, L.P. -	Limited buy-out investment partnership (see The Fulcrum II, L.P., The Second Fulcrum II, L.P.)
LBKL Associates '81 (L.P.) -	Investment partnership; venture capital
LNR Communications, Inc. -	Satellite communications equipment

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[2] See Note 1.

[3] See Note 1.

Ladish Co., Inc. -	Steel manufacturing and forgings: valves and pumps
Lehman Brothers -	Securities and investment advisory services
Lehman Newark Urban Renewal (L .P.) -	Office buildings, 80 Park Plaza, Newark, NJ (Primary tenant is Public Service Electric and Gas)
Liberty Associates (L.P.) -	Office and computer facility (unrelated to Merit Properties)
MNC Financial Inc. -	Bank holding company
Mapco Incorporated -	Oil and gas; coal mining; gas station services
Marriott Diversified American Motels (L.P.) -	Hotels
Marriott Hotel Properties (L.P.) -	Hotels
Marriott Hotel Properties II (L.P.) -	Hotels
Morgan (J.P.) & Company, Inc. -	Bank holding company; investment advice and management
Musicland Stores Corp. -	Music and video stores
Nynex -	Telecommunications access services **(recusal ends January 20, 1994)**
Nynex Business Center -	**Recusal ends January 20, 1994**
Nynex Development Co. -	Real estate development and services. **(Recusal ends January 20, 1994)**
ific Telesis Group -	Holding company; telecommunications
Paragon Communications -	Training and communications
Pepsico, Inc. -	Beverages; snack foods; restaurants **(recusal ends January 20, 1994)**
Philip Morris Companies, Inc. -	Cigarettes; beer, food, coffee
Protective Life Corp. -	Life insurance; holding company
Rhone Poulanc Rorer Inc. -	Pesticides, agricultural chemicals
Ruyo Associates (L.P.) -	Apartment buildings, Old Rupert Brewery, and Yorkville Towers, Manhattan
San Juan Basin Royalty Trust -	Oil and gas
Savers -	Real estate partnership, assets from RTC
Second Fulcrum II Limited Partnership, The	Limited partnership (see Rival Co., Bath Holdings and Ladish Co.)
Servicemaster, L.P. -	Holding company; management services to health care, education, and industrial facilities
Shared Financial Systems, Inc. -	Prepackaged software
Shearson Lehman Brothers, Inc. -	Securities and investment advisory services
Six Flags -	Amusement theme parks
Smithkline Beecham PLC ADR EQT -	Pharmaceuticals; clinical laboratories: holding company
Snyder Oil Corporation -	Oil and gas
Sorrento -	Cheese **(recusal ends January 20, 1994)**
them Living Real Estate, Inc. -	Real estate services
Student Loan Marketing Association -	Student loan secondary market obligations
Tandy Corporation -	Radio, television and electronics retailing
Tencor Instruments, Inc. -	Laser optical equipment

ne Fulcrum II Limited Partnership -	Limited partnership (see The Rival Co., Bath Holdings and Ladish Co.)
The Harper Group -	Publishing
The Rival Company -	Small appliances; holding company
Tigers -	Foreign currency options
Time Warner Inc. -	Publishing; cable television; movie and music Video production
Times Mirror Inc. -	Publishing; cable and broadcast television (Recusal ends January 20, 1994)
Transtar -	Rail and boat shipping; transportation (from Imperial Savings Association)
Union Carbide -	Holding company; carbon products; chemical. Plastics, gases and related products (recusal ends January 20, 1994)
U.S. Treasury Notes -	
VeriTech Microwave, Inc. -	Microwave components
Vicorp Restaurants, Inc. -	Restaurants and franchising
Vivra Inc. -	Home dialysis
Wellsford Properties -	REIT, multi-family properties
Wickes Corporation	Engineering, from Imperial Savings Association (see Collins & Aikman)

Any matter which involves or has a direct and predictable effect upon the following individuals:

an Bentsen
James R. Birle
Laurence D. Fink
Peter G. Peterson
Stephen A. Schwarzman
David Stockman

ENCLOSURE

ROGER C. ALTMAN
15 EAST 92ND STREET
NEW YORK, NEW YORK 10154

January 11, 1993

Dennis I. Foreman, Esq.
Deputy General Counsel
Department of Treasury
Washington, D.C. 20220

Dear Mr. Foreman:

In connection with the proposed nomination to the position of Deputy Secretary of the Treasury, I wish to inform you of the steps that I have taken or will take to avoid any conflict of interest or even the appearance of a conflict of interest.

First, upon appointment, I will withdraw as a general partner of Blackstone Group Holdings L.P., Blackstone Management Partners L.P. and Blackstone Management Associates L.P. and I will resign as vice-chairman of The Blackstone Group L.P., thereby terminating my role in the control and management of all Blackstone entities. However, I will retain my investments, as my counsel has discussed with you: limited partnership interests in Blackstone Management Associates L.P., Blackstone Family Investment Partnership L.P., and BlackRock Financial Management L.P. I will divest my interest in BlackRock Financial Management L.P. no later than September 30, 1993 and otherwise in accordance with the terms and conditions of its limited partnership agreement based on a valuation of my interest as of a date no later than [illegible] In addition, I will make no further investments through Blackstone Management Associates L.P. or Blackstone Family Investment Partnership L.P.

Second, upon appointment, I will resign as Chairman of Cities in Schools -- New York City and as a Director of The Children's Television Network, Inc., the Johns Hopkins School of Advanced International Studies, the Franklin Delano Roosevelt Library and the Citizens Budget Commission.

Third, upon appointment and issuance of certificates of divestiture by the Office of Government Ethics, I will divest certain marketable securities (a list of which is attached hereto as Attachment A), the divestiture of which you, after discussions with my counsel, have identified as reasonably necessary to comply with Federal conflict of interest statutes and regulations.

Fourth, I will recuse myself for a period of one year from the date of my appointment from official participation in any particular matter in which Blackstone Group Holdings L.P. or any of its majority-owned subsidiaries is a formal party or which directly and specifically affects these entities. However, this recusal does not extend to general policy, legislative or other matters of a general nature that may affect these entities along with similar entities in their respective industries

Fifth, upon appointment, I will recuse myself from official participation in any particular matter involving or having a direct and predictable effect on Chase Manhattan Bank, those clients listed on Attachment B hereto (but only for one year) or on a company or partnership in which I, my spouse or dependent children has any financial interest.

In particular with regard to the two preceding paragraphs, I will ask that the Secretary or another appropriate official handle any such matter. To ensure that I do not inadvertently participate officially in any such matter, I will provide members of my immediate staff, other appropriate officials and the Designated Agency Ethics Official with a list of my recused entities upon assuming my position. I will update this list each year at the time I complete my annual public financial disclosure report, or more frequently as appropriate.

Finally, I will work with officials of the Department of the Treasury to establish procedures to ensure that should any particular matters arise having a direct and predictable effect upon any of my financial interests or otherwise relating to my recused entities, they will be referred to another official in the Department for decision.

Sincerely,

Roger C. Altman

Attachment A

ASSETS TO BE DIVESTED

- MNC Financial, Inc.
- Morgan (J.P.) & Company, Inc.
- Philip Morris Companies Inc.
- San Juan Basin Royalty Trust
- Snyder Oil Corporation
- Enterra Corp.
- Mapco Incorporated
- Kelley Oil & Gas (conv. debt)
- Coastal Corp~~. (~~debt)
- **Savers Fund**
- **Tiger Fund**
- **Cross Timber** Oil Co., L.P.
- **BlackRock** Financial Management L.P.

Attachment B

CLIENT LIST

- Chrysler Corporation
- Duracell Holdings Corporation
- Executive Life Insurance Company
- Nynex
- PepsiCo, Inc.
- Sorrento
- Times Mirror Inc.
- Union Carbide

RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

February 22, 1994

MEMORANDUM TO: Roger C. Altman
Interim CEO

FROM: Ellen B. Kulka
General Counsel

In his letter of February 18, 1993, Senator D'Amato is requesting copies of all recusals and ethics agreements with respect to Albert V. Casey and yourself. The policy of the agency in the past has been to automatically release recusals and ethics agreements which refer solely to those financial interests which already appear on the individual's SF-278.

For any other recusals or agreements which the agency considers confidential, the individual (Mr. Casey and Mr. Jacobs for example) has been informed of the request and his consent has been sought to release these additional documents. The documents concerning Mr. Casey's recusal have already been supplied in the past. While we deem his previous consent to apply to the current circumstances, we are attempting to contact him to make him aware of our immediate intent to supply copies to Senator D'Amato.

The documents that apply to you which we have in our possession are the following:

1. January 11, 1993 letter to Dennis Foreman at Treasury indicating the matters from which you will withdraw, resign, or recuse yourself as a Treasury official. This document does not directly relate to the RTC and we request your guidance about how you wish this to be handled in our response.

2. March 16, 1993 memorandum from Arthur Kusinski to the Executive Committee of the RTC identifying items from which you will recuse yourself in your capacity as Interim CEO of the RTC. A copy is attached for your use.

The Ethics Office has determined that all of the references in the recusal list attached to the March 16 memorandum are contained in your SF-278 or its attachments except for:

(a) the list of individuals at the bottom of page 4 which have been highlighted on the attached copy; and

(b) the two entities highlighted on page 3 in which you had no direct financial interest but, in an excess of caution, were placed on your recusal list because of your prior affiliation with those firms and your continued financial interest in matters which involve their limited partnerships.

Please advise us as to whether you consent to the release of the March 16, 1993 memorandum as well as your position on the January 11, 1993 letter to Mr. Foreman.

Also attached is a copy of Senator D'Amato's February 18 request and our response to his earlier letter dated February 8, 1994 asking for identification of any recusals by you and Mr. Casey.

TO Robe

DATE 2/23 TIME [illegible]

PHONE CALLS

"WHILE OUT" RECORD

M. Bridget

OF

PHONE
AREA CODE NUMBER EXTENSION

TELEPHONED	✓	PLEASE CALL	✓
CALLED TO SEE YOU	☐	RETURNED CALL	☐
WILL CALL AGAIN	☐	URGENT	☐

MESSAGE

TAKEN BY: Peggy

TO Steve

DATE 2/22/94 TIME 12:14

PHONE CALLS

"WHILE OUT" RECORD

M. Cesar Ros

OF

PHONE
AREA CODE NUMBER EXTENSION

TELEPHONED	✓	PLEASE CALL	✓
CALLED TO SEE YOU	☐	RETURNED CALL	☐
WILL CALL AGAIN	☐	URGENT	☐

MESSAGE

TAKEN BY: Peggy

TO Bob / Art

DATE 2/22/94 TIME 12:18

PHONE CALLS

"WHILE OUT" RECORD

M. Mr Gorman

OF Schwabach

PHONE 622-0283
AREA CODE NUMBER EXTENSION

TELEPHONED	☐	PLEASE CALL	☐
CALLED TO SEE YOU	☐	RETURNED CALL	☐
WILL CALL AGAIN	☐	URGENT	☐

MESSAGE

TAKEN BY: Peggy

TO Art / Bob

DATE 2/22/94 TIME 12:18

PHONE CALLS

"WHILE OUT" RECORD

M. Mr Gorman

OF Schwabach

PHONE 622-0283
AREA CODE NUMBER EXTENSION

TELEPHONED	✓	PLEASE CALL	✓
CALLED TO SEE YOU	☐	RETURNED CALL	☐
WILL CALL AGAIN	☐	URGENT	☐

MESSAGE

TAKEN BY:

TO Don

DATE 2/18/94 TIME 12:17

PHONE CALLS

"WHILE OUT" RECORD

M. Peter Knight

OF

PHONE 62116
AREA CODE NUMBER EXTENSION

TELEPHONED ☐ PLEASE CALL ☑
CALLED TO SEE YOU ☐ RETURNED CALL ☐
WILL CALL AGAIN ☐ URGENT ☐

MESSAGE Re Mr. Rother's recusal – this morning's Topic

TAKEN BY: Peggie

TIME 2 22 DATE

TO Don

WHILE YOU WERE OUT

M Wilma

OF Legal

PHONE ( )

☐ URGENT!
☐ Returned your call
☐ Please call
☐ Will call again
☐ Telephoned
☐ Called to see you
☐ Wants to see you
☐ You'll know

MESSAGE Art has 1:30 w/ Ellen Kulka – possibly standby – if Art isn't back you go.

OPERATOR: S2

23-024—400 SETS 23-027—200 SETS

TO Don / Art

DATE 2/22/94 TIME 12:18

PHONE CALLS

"WHILE OUT" RECORD

M. Mr Goerrano

OF Schmalzbach

PHONE 622-0283
AREA CODE NUMBER EXTENSION

TELEPHONED ☐ PLEASE CALL ☐
CALLED TO SEE YOU ☐ RETURNED CALL ☐
WILL CALL AGAIN ☐ URGENT ☐

MESSAGE Jean understood from Roger – OK on memo

Dean's letter need clearance

622-2882

TAKEN BY: Peggie

FAX TRANSMITTAL

1789

Office of the General Counsel
DEPARTMENT OF THE TREASURY
1500 Pennsylvania Ave., N.W., Room 3000
Washington, DC 20220
***Telephone*: (202) 622-0287**
***FAX*: (202) 622-2882**

DATE: 2/1

TO: Pete Kucinski **PAGES TO FOLLOW:** ____

FROM: Dennis Follman

SUBJECT: ____________________

Addressee FAX No.: 416-2481 **Confirmation No.:** __________

Notes and Special Instructions:

DONALD W. RIEGLE, JR., MICHIGAN, CHAIRMAN
PAUL S. SARBANES, MARYLAND
CHRISTOPHER J. DODD, CONNECTICUT
JIM SASSER, TENNESSEE
RICHARD C. SHELBY, ALABAMA
JOHN F. KERRY, MASSACHUSETTS
RICHARD H. BRYAN, NEVADA
BARBARA BOXER, CALIFORNIA
BEN NIGHTHORSE CAMPBELL, COLORADO
CAROL MOSELEY-BRAUN, ILLINOIS
PATTY MURRAY, WASHINGTON
ALFONSE M. D'AMATO, NEW YORK
PHIL GRAMM, TEXAS
CHRISTOPHER S. BOND, MISSOURI
CONNIE MACK, FLORIDA
LAUCH FAIRCLOTH, NORTH CAROLINA
ROBERT F. BENNETT, UTAH
WILLIAM V. ROTH, JR., DELAWARE
PETE V. DOMENICI, NEW MEXICO
STEVEN B. HARRIS, STAFF DIRECTOR AND CHIEF COUNSEL
HOWARD A. MENELL, REPUBLICAN STAFF DIRECTOR

United States Senate
COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS
WASHINGTON, DC 20510-6075

February 18, 1994

Mr. Roger Altman
President and
Interim Chief Executive Officer
Resolution Trust Corporation
801 17th Street, N.W.
Washington, D.C. 20434

Dear Mr. Altman:

Please provide to my staff copies of all the documents pertaining to Madison Guaranty Savings and Loan ("Madison"), including all subsidiaries of Madison, that are currently in the possession, or subject to the control, of the Resolution Trust Corporation ("RTC"). In addition, please forward the names and titles of all RTC employees that are involved in any review or investigation of the Madison Guaranty matter. Should the RTC refuse to release any documents, please provide, in writing, a summary index of documents that the RTC refuses to provide as well as an explanation of the grounds alleged for that refusal.

Please forward this information to Douglas Nappi, at the Senate Committee on Banking, Housing and Urban Affairs, 534 Dirksen, Washington, DC 20510. Mr. Nappi can be reached at 202-224-1577.

Thank you in advance for your assistance.

Sincerely,

Alfonse D'Amato

Alfonse M. D'Amato
United States Senator

AD:dn

[illegible]

United States Senate
COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS
WASHINGTON, DC 20510-6075

February 18, 1994

Mr. Roger Altman
Interim Chief Executive Officer
Resolution Trust Corporation
801 17th Street, NW
Washington, DC 20434

Dear Mr. Altman:

Please provide the following:

1) A copy of any review that the RTC prepared, or had prepared, pertaining to potential conflicts-of-interest that may have existed in connection with the Rose Law Firm and Madison Guaranty;
2) Copies of all recusal letters and ethics agreements entered into by Albert Casey and yourself.

Please provide these materials as soon as possible, and as they become available for delivery. If you have any questions regarding this request, Mr. Nappi can be reached at (202) 224-3737.

Sincerely,

Alfonse D'Amato

Alfonse M. D'Amato
Ranking Republican Member

AMD:ab

February 18, 1994

The Honorable James A. Leach
U.S. House of Representatives

Dear Mr. Leach:

In your letter to him of February 3, 1994, you asked Deputy Secretary Altman to seek advice from "Treasury's General Counsel and Ethics Office" as to whether he is obligated to recuse himself from decisions concerning the Resolution Trust Corporation's resolution of Madison Guaranty Savings and Loan Association. He has sought such advice from me and from ethics officials of the Resolution Trust Corporation.

I understand you to express concern about the possibility that the Deputy Secretary might, as acting Chief Executive Officer of the Resolution Trust Corporation pursuant to the Vacancy Act, 5 U.S.C. 3347, participate in RTC decisions as to whether there are civil claims for RTC to pursue arising from the failure of Madison Guaranty Savings and Loan Association and the expiration of statutes of limitation applicable to any such claims. Your concern seems to stem from the fact that decisions regarding those claims "may touch upon the President" who appointed the Deputy Secretary to his Treasury position. You asked the Deputy Secretary to seek advice from Treasury's General Counsel as to whether he is "obligated to recuse (himself) from any decisions concerning the resolution of Madison Guaranty." We have advised the Deputy Secretary that neither his appointment at Treasury nor his detail to the RTC creates such an obligation.

Your letter suggests that the Deputy Secretary's participation in such decisions would be "structurally unseemly," a conclusion apparently based on the fact that he was appointed by the President and confirmed for a position in a Cabinet department and is acting in a position in an Executive agency that is not such a department. However, the authority pursuant to which the Deputy Secretary is detailed to RTC duties was amended in 1988 precisely so that any Executive agency, such as the RTC, and not just Cabinet departments, could continue to have Presidentially-appointed leadership when circumstances delay filling vacant positions. Pub.L. 100-398, §7(a)(1) and (2), Aug. 17, 1988, 102 Stat. 988.

You also suggest that a structural issue arises from RTC's "public law enforcement responsibilities;" that it would be improper for a Presidential appointee not confirmed for a position at the RTC to exercise those responsibilities. As a preliminary matter, the responsibility to pursue civil claims is in no special sense a "law enforcement" responsibility. In fact, it is explicitly the responsibility of the head of every

Executive agency to collect claims of the United States that arise from the agency's activities or are referred to it. 31 U.S.C. 3711. Because the Deputy Secretary has similar claims collection responsibilities at Treasury and at the RTC, I can see no "structural" concern regarding his performance of those responsibilities at the RTC.

Even if the RTC were in some special sense a "law enforcement" agency, absent an exception in the Vacancy Act or another statutory provision creating an exception, the Vacancy Act authorizes filling vacant positions at any "Executive agency (other than the General Accounting Office)." The language of the Act does not distinguish among agencies based on the nature of their functions. Moreover, it would be incorrect to infer the existence of such distinctions. In the one instance of an exception created by the Vacancy Act, Congress has employed language that clearly achieves that objective. The Act expressly provides that its authority to detail Presidential appointees from other agencies does not apply to vacancies in the office of the Attorney General; neither the Vacancy Act nor any other law creates such an exception for the RTC.

Finally, even if there were some basis for reading into the Vacancy Act a principle that only an official confirmed for a position in an agency with law enforcement responsibilities should be detailed to another such agency, that would in no way suggest that the Deputy Secretary of the Treasury should not perform law enforcement functions at the RTC. Treasury has enormous criminal law enforcement responsibilities, a conclusion amply demonstrated by the significant law enforcement jurisdictions of the Bureau of Alcohol, Tobacco and Firearms, the Customs Service, the Secret Service and the Internal Revenue Service. Each of those organizations reports through its chain of command to the Deputy Secretary of the Treasury.

You also suggested that Deputy Secretary Altman consult ethics officials. He has done so. I am informed that the RTC's Ethics Officer has advised the Deputy Secretary that he is under no legal obligation to recuse himself from matters at the RTC that may touch upon the President. Finally, the Ethics Officer has expressed the view that it may not be necessary to decide whether to participate in such a matter now.

I trust this letter fully addresses your concerns.

Sincerely,

Jean E. Hanson
General Counsel

RTC
Resolution Trust Corporation

FAX COVER SHEET

DATE: 2-17-94

TO: Ken Smalzbach
Treasury
622-1176

FROM: Donald J. Foskolt
OFFICE OF ETHICS

FAX NUMBER: **(202) 416-2481**
TELEPHONE #: **(202) 416-2157 (ask for Robin McGill)**

TOTAL PAGES: 3+cover

COMMENTS:

Notice: For our records please call upon receipt of this message atthe aforementioned telephone number. If for any reason this message is inadvertently sent to you, please be advised that dissemination, distribution, or copying of this communication is prohibited. It would be greatly appreciated if the original message is returned to us at the address below (via U.S. Mail). Thanking you in advance.

801 17th Street, NW ■ Washington, DC 20434-0001

TEL: Feb 17'94 12:23

Transmit Confirmation Report

No. : 002
Receiver : TREASURY KEN
Transmitter :
Date : Feb 17'94 12:23
Time : 01'39
Mode : Norm
Pages : 03
Result : OK

TEL: Feb 17'94   15:28

Transmit Confirmation Report

No.   : 004
Receiver   : 96221176
Transmitter   :
Date   :   Feb 17'94   15:28
Time   : 02'16
Mode   :   Norm
Pages   : 04
Result   : OK

DRAFT

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

February 16, 1994

Mr. Alfonso M. D'Amato
Committee on Banking, Housing, and Urban Affairs
Washington, D.C. 20510-6075

Dear Mr. D'Amato:

This letter is in response to your letter to me dated February 8, 1994. In that letter you asked that I provide you with the number of times the RTC's Chief Executive Officer has recused himself from involvement in matters before the RTC; a summary of the grounds that led to the recusal decision; and the RTC's policies or guidelines pertaining to recusals.

During his tenure, the Chief Executive Officer, Albert Casey, recused himself by memorandum to the RTC's Ethics Office from 3 matters that came before the RTC. Mr. Casey further had executed an Ethics Agreement in which he committed to recusing himself from any entity in which he holds a financial interest, as well as any other interest derived from pensions of 5 corporations. The Ethics Office also disqualified Mr. Casey from participating in any RTC matter effecting his 6 creditors should such matter come before him.

During his tenure, the Chief Executive Officer, Roger G. Altman, has not needed to recuse himself from any matter before the RTC. An RTC Recusal List was developed by the RTC's Ethics Office in which Mr. Altman had committed to recuse himself from matters that could have a direct and predictable effect upon his financial interest his former partners or clients should such matter come before him as the RTC's CEO. That list included 116 firms and/or individuals.

The grounds that led to the recusal decisions by Mr. Casey are unknown in tow instances. Under 12 CFR 1605 an employee may recuse himself or herself from matters in which the employee believes he or she may be have a conflict of interest. In one instance Mr. Casey recused himself from any matter before the agency which related to business dealings that the RTC engaged in with a member of his household.

The RTC's policies and guidelines pertaining to recusal are founded in the criminal statute and the standards of conduct regulations. Specifically, 18 USC 208, 5 CFR 2635, and 12 CFR 1605, as amended, provide the basis for an employee's recusal from any official government matter which could result in a conflict of interest or

DRAFT

an appearance thereof. Employees may recuse themselves simply by not participating in a matter at such time that the matter, in which they may have a conflict, comes before them. We encourage employees to document recusals either by internal memo or by E-Mail. In addition, during our review of financial disclosures forms, our Deputy Ethics Counselors issue disqualification letters to employees on matters in which there may be an obvious and real conflict of interest. This is done to ensure that the employees are in compliance with the criminal statutes or standards of conduct regulations. These disqualifications would be as a result of a financial interest, an extension of credit in excess of $10,000, prior employment, or a close personal relationship.

Disqualifications are usually between the employee and the RTC's Ethics Office. Supervisors or other management officials are usually not made aware of these disqualifications until such time as a conflicted matters arises with the conflicted party. At that time those individuals that must reassign the matter to another employee are advised of the disqualification. The conflicted employee's supervisor must assume responsibility for the conflicted matter of reassign the matter to another individual at or above the level of the conflicted employee. Notice of this reassignment of the matter is made known to those who have a need to know in order as not to direct the matter to the conflicted employee.

I trust that this responds to the questions you have raised. If you have any further questions on this matter please feel free to contact our Ethics Office on (202) 416-6952.

Sincerely,

Peter Knight, Director
Office of Governmental Relations

FAX TRANSMITTAL

DEPARTMENT OF THE TREASURY
Office of the Assistant General Counsel
for Administrative and General Law
1500 Pennsylvania Ave., N.W., Room 1410
Washington, DC 20220
***Telephone*: (202) 622-0450**
***FAX*: (202) 622-1176**

FROM: **Kenneth R. Schmalzbach, Assistant General Counsel**

DATE: February 17, 1994 **PAGES TO FOLLOW** 4

TO: Don Rosholt

SUBJECT: Statute of limitations extension

Addressee FAX No.: 416-2481 **Confirmation No.:** 416-2157

Notes and Special Instructions: Don, here's what I have by way of the language of the extension. I still haven't seen the enrolled enactment or the bill signed by the President, but I've been told this language is in the final bill.

SEC. 406 EXTENSION OF RTC CIVIL STATUTE OF LIMITATIONS

Section 21A(b)(14)(C) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(14)(C)) is amended by striking clause (i) and inserting in lieu thereof the following:

"(i) the period beginning on the date the claim accrues (as determined pursuant to section 11(d)(14)(B) of the Federal Deposit Insurance Act) and ending on December 31, 1995 or ending on the date of the termination of the Corporation pursuant to section 21A(m)(1), whichever is later; or".

laws, unfunded Federal mandates, and other Federal regulatory requirements, that may prevent or impair the ability of State and local authorities to rebuild expeditiously the areas devastated by the January 1994 earthquake in Southern California. In conducting the study, the Comptroller General shall consult with State and local officials of California.

(b) REPORT.—Not later than 30 days after the date of the enactment of this Act, the Comptroller General shall submit to the Congress a report setting forth findings and recommendations as a result of the study conducted under subsection (a). The report shall include—

(1) an identification of the specific Federal laws, unfunded Federal mandates, and other Federal regulatory requirements, referred to in subsection (a),

(2) an analysis of the manner in which such laws, mandates, and other requirements may prevent or impair the ability of State and local authorities to rebuild expeditiously the areas devastated by the January 1994 earthquake in Southern California, and

(3) recommended forms of, and appropriate time periods for, relief from such laws, mandates, and other requirements.

SEC. 405. In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available in this Act, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products, and that notice of this provision be given to each recipient of assistance awarded under this Act.

SEC. 406. EXTENSION OF RTC CIVIL STATUTE OF LIMITATIONS.

Section 21A(b)(14)(C) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(14)(C)) is amended by striking clause (i) and inserting in lieu thereof the following:

"(i) the period beginning on the date the claim accrues (as determined pursuant to section 11(d)(14)(B) of the Federal Deposit Insurance Act) and ending on December 31, 1995 or ending on the date of the termination of the Corporation pursuant to section 21A(m)(1), whichever is later; or".

SEC. 407. REPEALS.

Except for subsection (b) of section [illegible], sections [illegible] and [illegible] of the Three Affiliated Tribes and Standing Rock Sioux Tribe Equitable Compensation Act are repealed effective October 30, 1992: *Provided*, That the U.S. Army Corps of Engineers should proceed with the Secretary of the Interior to designate excess lands and transfer them pursuant to Public Law [illegible].

SEC. 408. It is the sense of the Congress that the Department of Defense should proceed with construction of a new facility for the Walter Reed Army Institute of Research at Forest Glen, Maryland, not later than 45 days after enactment of this Act.

SEC. 409. The Administrator of the Federal Aviation Administration is directed to establish and operate an Auxiliary Flight Service Station at Marquette, Michigan, no later than September 1, 1994, using available funds.

TECHNICAL CORRECTION

SEC. 410. Subsection (b) of section 307 of the National Defense Authorization Act …

be transferred until the Administrator of NASA certifies a plan that fully funds the LANDSAT 7 program within the NASA budget for fiscal year 1995 and beyond, and such plan has been submitted to the appropriate Congressional oversight committees.

And the Senate agree to the same.

WILLIAM H. NATCHER,
NEAL SMITH,
SIDNEY R. YATES,
DAVID R. OBEY,
LOUIS STOKES,
TOM BEVILL,
JOHN P. MURTHA,
JULIAN C. DIXON,
VIC FAZIO,
W.G. (BILL) HEFNER,
STENY H. HOYER,
BOB CARR,
RICHARD J. DURBIN,
JOSEPH M. MCDADE,
RALPH REGULA,
BOB LIVINGSTON,
(Except for S. [illegible] of the Senate amendment),
JERRY LEWIS,
HAROLD ROGERS,
JOE SKEEN,
JOHN EDWARD PORTER,
Managers on the Part of the House.

ROBERT C. BYRD,
DANIEL K. INOUYE,
ERNEST F. HOLLINGS,
J. BENNETT JOHNSTON,
PATRICK LEAHY,
JIM SASSER,
DENNIS DECONCINI,
DALE BUMPERS,
FRANK R. LAUTENBERG,
TOM HARKIN,
BARBARA A. MIKULSKI,
HARRY REID,
J. ROBERT KERREY,
HERB KOHL,
PATTY MURRAY,
DIANNE FEINSTEIN,
MARK O. HATFIELD,
TED STEVENS,
THAD COCHRAN,
ALFONSE M. D'AMATO,
ARLEN SPECTER,
PETE V. DOMENICI,
PHIL GRAMM,
CHRISTOPHER S. BOND,
SLADE GORTON,
MITCH MCCONNELL,
CONNIE MACK,
CONRAD BURNS,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3759) making emergency supplemental appropriations for the fiscal year ending September 30, 1994, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effects of the

the committee of conference. The statement of the managers, while repeating some report language for emphasis, does not intend to negate the language referred to above unless expressly provided herein.

HISTORY OF THE BILL

H.R. 3759 as reported by the House Committee on Appropriations included emergency supplemental appropriations for the Southern California Earthquake, for peacekeeping and peace enforcing costs of the Department of Defense, and for additional disaster recovery expenses due to the Midwest floods of 1993 and the Loma Prieta Earthquake. The bill was amended by the House to include a package of rescissions that was reported to the House in H.R. [illegible]. That bill was developed based on rescission requests made by the President. Previously, this package of rescissions had passed the House as Title XVII of H.R. 3400. After House action on H.R. 3759, additional supplemental appropriations and rescission requests were made by the President and all pending requests were considered by the Senate in the development of the Senate amendment.

TITLE I—EMERGENCY SUPPLEMENTAL APPROPRIATIONS

CHAPTER I

DEPARTMENT OF AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

SOIL CONSERVATION SERVICE

WATERSHED AND FLOOD PREVENTION OPERATIONS

The conference agreement includes $[illegible] for the Watershed and Flood Prevention Operations of the Soil Conservation Service as proposed by both the House and the Senate. This funding is available until expended, as proposed by the Senate, instead of until September 30, 1995, as proposed by the House. The conference agreement also includes language to allow additional enrollment into the Emergency Wetlands Reserve Program as proposed by both the House and the Senate.

The conference agreement includes Senate language to provide that assistance may be made available when the primary beneficiary is agriculture or agribusiness regardless of drainage size. The conference agreement also provides that not more than $[illegible] may be used for drainage areas not currently covered by the Soil Conservation Service. The House bill contained no similar provision. The conferees are concerned with how the Department will decide what additional work will be done under this new statutory proviso. The conferees direct the Soil Conservation Service to submit criteria to the Committees on Appropriations within 30 days of enactment on how projects will be prioritized and selected.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

EMERGENCY CONSERVATION PROGRAM

The conference agreement includes

[illegible]

AMENDMENT NO.____ Calendar No.____

Purpose: To Perfect D'Amato Amendment No. 1442

IN THE SE
2nd Sess.

AMENDMENT Nº 1443

By ~~MURKOWSKI~~ METZENBAUM

Bill/Res. No. HR 3759

Referred to ~~[illegible]~~

O

AMENDMENT intended to be proposed by Mr. ~~D'Amato~~ [illegible]

Viz:

Delete lines 3 through 10 of D'Amato Amendment No.____, and insert in lieu thereof the following:

"(a) Section 21A(b)(14)(C) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(14)(C) is amended by striking clause (i) and inserting in lieu thereof the following:

"(i) the period beginning on the date the claim accrues (as determined pursuant to section 11(d)(14)(B) of the Federal Deposit Insurance Act) and ending on December 31, 1995; or."

or ending on the date of the termination of the Corporation pursuant to Section 21A(m)(1), whichever is later;

1

DONALD W. RIEGLE JR., MICHIGAN, CHAIRMAN

PAUL S. SARBANES, MARYLAND
CHRISTOPHER J. DODD, CONNECTICUT
JIM SASSER, TENNESSEE
RICHARD C. SHELBY, ALABAMA
JOHN F. KERRY, MASSACHUSETTS
RICHARD H. BRYAN, NEVADA
BARBARA BOXER, CALIFORNIA
BEN NIGHTHORSE CAMPBELL, COLORADO
CAROL MOSELEY-BRAUN, ILLINOIS
PATTY MURRAY, WASHINGTON

ALFONSE M. D'AMATO, NEW YORK
PHIL GRAMM, TEXAS
CHRISTOPHER S. BOND, MISSOURI
CONNIE MACK, FLORIDA
LAUCH FAIRCLOTH, NORTH CAROLINA
ROBERT F. BENNETT, UTAH
WILLIAM V. ROTH, JR., DELAWARE
PETE V. DOMENICI, NEW MEXICO

STEVEN B. HARRIS, STAFF DIRECTOR AND CHIEF COUNSEL
HOWARD A. MENELL, REPUBLICAN STAFF DIRECTOR

United States Senate
COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS
WASHINGTON, DC 20510-6075

February 8, 1994

Mr. Peter Knight
Director
Office of Governmental Relations
Resolution Trust Corporation
801 17th Street, NW
Washington, DC 20434

Dear Mr. Knight:

Pursuant to your conversation with Doug Nappi, of the Banking Committee, please provide the answers to the following questions:

1) The number of times that an RTC Chief Executive Officer has recused himself from involvement in matters before the RTC;
2) A summary of the grounds that led to the recusal decision; and
3) The RTC's policies or guidelines pertaining to recusals;

If you have any questions regarding this request, Mr. Nappi can be reached at (202) 224-3737.

Sincerely,

Alfonse D'Amato

Alfonse M. D'Amato
Ranking Republican Member

AMD:sb

DRAFT
No Changes
from Legal

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

February 16, 1994

Honorable Alfonse M. D'Amato
United States Senate
Washington, D.C. 20510-6075

Dear Senator D'Amato:

This letter is in response to your letter to me dated February 8, 1994. In that letter you asked that I provide you with the number of times the RTC's Chief Executive Officer has recused himself from involvement in matters before the RTC; a summary of the grounds that led to the recusal decision; and the RTC's policies or guidelines pertaining to recusals.

During his tenure, Albert V. Casey, the Chief Executive Officer, recused himself by memorandum to the RTC's Ethics Office from three matters that came before the RTC. Mr. Casey did not state the grounds that led to two of his recusal decisions. Under 12 CFR 1605 an employee may recuse himself or herself from matters in which the employee believes he or she may have a conflict of interest. In the third instance, Mr. Casey recused himself from any RTC matters involving a member of his immediate household.

Mr. Casey further had executed an Ethics Agreement in which he committed to recusing himself from any entity in which he held a financial interest, as well as any other interest derived from pensions of five corporations. Mr. Casey also disqualified himself from participating in any RTC matter effecting his six creditors should such a matter come before him.

During his tenure, Roger G. Altman, the Interim Chief Executive Officer, has not needed to recuse himself from any matter before the RTC. Mr. Altman has recused himself from matters that could have a direct and predictable effect upon his financial interest, his former partners, or clients - should such matter come before him as the RTC's CEO.

DRAFT

The RTC's policies and guidelines pertaining to recusal are founded in the criminal statute and the standards of conduct regulations. Specifically, 18 USC 208, 5 CFR 2635, and 12 CFR 1605, as amended, provide the basis for an employee's recusal from any official government matter which could result in a conflict of interest or an appearance thereof. Employees may recuse themselves simply by not participating in a matter at such time that the matter, in which they may have a conflict, comes before them. Although employees are not legally required to put their recusals in writing, we encourage employees to document recusals either by internal memorandum or by electronic mail. In addition, during our review of financial disclosure forms, our Deputy Ethics Counselors (DECs) issue disqualification letters to employees on matters in which there may be an obvious and real conflict of interest, should such a matter come before them. This is done to ensure that the employees are in compliance with the criminal statutes or standards of conduct regulations. These disqualifications would include certain financial interests, extensions of credit in excess of $10,000, and prior employment.

Disqualifications are usually between the employee, his or her DEC, and the RTC's Ethics Office. Supervisors or other management officials are usually not made aware of these disqualifications until such time as a conflicted matter arises with the conflicted party. The conflicted employee's supervisor must then assume responsibility for the matter or reassign the matter to another individual at or above the level of the conflicted employee. Notice of this reassignment is made known to those who have a need to know.

Both Mr. Casey and Mr. Altman informed members of the RTC's Executive Committee and the RTC Secretary of their recusals.

I trust that this responds to the questions you have raised. If you have any further questions on this matter please feel free to contact our Ethics Office at (202) 416-6952.

Sincerely,

Peter Knight, Director
Office of Governmental Relations

To: Carol Obrien@OGR@RTCDC
Cc: Peter E. Knight@OGR@RTCDC
Donald L. Rosholt@Ethics@RTCDC
Bcc:
From: Arthur J. Kusinski@Ethics@RTCDC
Subject: re: D'Amato\recusal questions 12765
Date: Wednesday, February 16, 1994 14:44:05 EST
Attach:
Certify: N
Forwarded by:

Don Rosholt, who is working on the reply, saw Peter over lunchtime today and talked with him about this. It seems that someone listed the due date incorrectly as the 24th of February, and Don was working on that deadline. We're close to completion, if not complete, and I'll let Don reply more directly to your inquiry. Sorry for the mix-up.

Art

To: Arthur J. Kusinski@Ethics@RTCDC
Donald L. Rosholt@Ethics@RTCDC
Cc Ellen B. Kulka@Legal-sc@RTCDC
Peter E. Knight@OGR@RTCDC
Bcc:
From: Carol Obrien@OGR@RTCDC
Subject: D'Amato\recusal questions 12765
Date: Wednesday, February 16, 1994 14:35:15 EST
Attach:
Certify: N
Forwarded by: Arthur J. Kusinski@Ethics@RTCDC

Comments by: Arthur J. Kusinski@Ethics@RTCDC
Forwarded to: dlr
Comments:

Don -- Here's the incoming on the D'Amato letter re Altman recusals. I copied you on my reply, and would you reply directly to Carol? Thanks.

------------------------- [Original Message] -------------------------

Art, On February 8, I personally delivered to you a copy of Senator D'Amato's letter of the same date. You indicated that work would begin on the reply the next morning and that you were quite sure that the information requested would be immediately available and that we should have a reply by February 11. Peter Knight has been getting nasty calls from D'amato's staff and we need to furnish this information ASAP. Could you or Don give me a status report on when I will be furnished the information for transmittal to D'Amato? The reply needs to be approved by Ms. Kulka before transmittal. Carol

To: Arthur J. Kusinski@Ethics@RTCDC
Donald L. Rosholt@Ethics@RTCDC
Cc Ellen B. Kulka@Legal-sc@RTCDC
Peter E. Knight@OGR@RTCDC
Bcc:
From: Carol Obrien@OGR@RTCDC
Subject: D'Amato\recusal questions 12765
Date: Wednesday, February 16, 1994 14:35:15 EST
Attach:
Certify: Y
Forwarded by:

Art, On February 8, I personally delivered to you a copy of Senator D'Amato's letter of the same date. You indicated that work would begin on the reply the next morning and that you were quite sure that the information requested would be immediately available and that we should have a reply by February 11. Peter Knight has been getting nasty calls from D'amato's staff and we need to furnish this information ASAP. Could you or Don give me a status report on when I will be furnished the information for transmittal to D'Amato? The reply needs to be approved by Ms. Kulka before transmittal. Carol

Includes comments by OGE & Treasury

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

DRAFT

February 16, 1994

MEMORANDUM TO: Roger G. Altman
Interim Chief Executive Officer

FROM: Arthur J. Kusinski
Ethics Officer
and
Designated Agency Ethics Official

SUBJECT: RTC Madison Guaranty Matters

SUMMARY:

may [illegible]

You have sought advice from your RTC ethics counselor as to whether your longstanding personal relationship with the President gives rise to a legal obligation to recuse yourself from ~~certain~~ matters [illegible] that ~~are~~ before the RTC that may affect financial interests of the President or his family. I have carefully considered your inquiry, and conclude that the decision whether to participate in such matters is not governed by ethics statues or regulations. Thus, you have the discretion to participate or not, as you determine to be appropriate. I note, however, that it is not necessary for you to ~~make that decision~~ until such time as the matter comes before you. In fact, it may be prudent for you not to make a decision until then, as other factors may occur in the meantime which could have an impact upon your decision.

decide whether to participate in a particular matter

DISCUSSION:

The only ethics statue or regulation which is relevant to your request for advice is 5 C.F.R. 2635.502 ("section . 502"), which is entitled "Personal and Business Relationships".[1] That provision

encourages an official who has a relationship with a person who is a party to a Government matter in which the official is called upon to act, and is concerned that the relationship would raise an issue of impartiality, to contact the agency's ethics officials. You have done so.

---

[1] Title 18 U.S. Code, section 208 prevents an official from participating for the Government in a matter affecting a financial interest of the official or certain other persons and organizations. You have neither a personal financial interest in the matters before the RTC nor a relationship with the President (who may have such an interest) of the kind that is relevant for purposes of 18 U.S.C. 208. Section 208 would impute to you the financial interest of the President only if he were your general partner or a person with whom you were negotiating or had an arrangement for prospective employment. Thus, that provision does

Ethics officials then must determine whether your relationship with the President is a "covered relationship" as that term is defined by 5 C.F.R. 2635.502(b)(1). Officials have a "covered relationship" with: (1) a "person" with whom the official has or seeks a business, contractual or other financial relationship; (2) a member of their household or a relative with whom they have a close personal relationship; (3) a "person" with whom certain of the official's relatives have or seeks employment or similar relationships; (4) a "person" for whom the official has served as an employee, attorney or in a similar capacity within the last year; and (5) an organization other than a political party in which the official is an active participant such as a chairman of one of the organization's committees. For purposes of these regulations, the term "person" does not include the Federal Government and/or officials of the Federal Government acting in their official capacities. 5 C.F.R. 2635.102(k). You clearly have none of these relationships with the President, and therefore you are not in a "covered relationship" with him.

In considering your request for advice, I am aware that your only relationship with the President is one that would be fairly characterized as a longstanding personal friendship. However, you and the President do not now and have not in the past participated together in business or financial transactions.[1]

While a personal relationship such as yours with the President is a factor to be considered (along with others) in deciding whether the circumstances raise a question as to your impartiality in a matter that may affect the President's interests, standing alone it is not determinative. The OGE specifically considered whether a "close personal friendship," standing alone, should be considered a "covered relationship," and decided that it should not. 57 F.R. 35026 (1993). As the section .502 regulation operates, only "covered relationships" standing alone raise questions of appearances of loss of impartiality as a statutory or regulatory matter.

I have consulted with the ~~Director and General Counsel of the~~ Office of Government Ethics concerning this matter. They believe that your decision as to whether to participate in an RTC matter

---

not create any bar to your participation in the RTC's decisions concerning those matters.

It is our opinion that there is no legal or ethical reason to preclude you

that may affect a financial interest of the President is not a matter that is mandated by ethics statues and regulations. OGE also believes that the ethics advice I provided to you in these circumstances is within the discretion of the ethics official the affected agency; and that the decision whether to participate in RTC matters that may involve the interests of the President with your discretion. I have also consulted with the Designated Agency Ethics Official at the Department of the Treasury who concurs with me in this analysis. ~~Accordingly, we see no reason to preclude you from participating in~~

~~In other words, there are~~ no legal reasons to preclude you from acting on such matters. Whether you decide to recuse, or not there will be no legal objection to your decision. If and when a matter is presented to you in which you are considering recusing yourself

RECOMMENDATION: ~~I suggest~~ recommend that we review ~~the matter~~ whether to specifics of that matter at that time.

5 CFR 2635 requires government employees to act impartially when they participate in matters for the Government. However, this provision has no bearing on a decision as to whether to participate in the matter. Thus it cannot provide an independent basis for a legal obligation for you to recuse yourself from a matter.

When ~~In~~ making ~~your~~ that decision I will need to factor into recognize that you have taken an oath of office to place loyalty to the United States Government, the Constitution, the laws and ethical principles above your private interest or the private interests of others. ~~I recommend~~ that, in making ~~your~~ the decision, ~~you~~ take into consideration your longstanding personal relationship with the President. You are also advised to take into consideration the nature and importance of your role as the RTC's CEO in the Madison matter; the sensitivity of this matter; the difficulty in assigning this matter to another individual at the RTC; the likelihood that a reasonable person with full knowledge of the facts would question your impartiality; and the effect that this matter may have upon the President's financial interests.

Agree The regulations do not require government employees to recuse themselves from actions which are not before them. Therefore, ~~such~~ a decision now may be premature. This matter may never come before you as the RTC's CEO. Recognizing that other factors may arise which could have an impact upon your decision to recuse or not to recuse yourself, it may be more appropriate for you not to make this decision, until such time as the matter comes to your attention.

Discussion ?

In summary, ~~there~~ is It is my opinion that there is no

when considering whether to

Now

The regulations do not require government employees to recuse themselves from actions which are not before them. Therefore, such a decision may be premature. This matter may never come before you as the RTC's CEO. Recognizing that other factors may arise, between now and when you have to make a decision, which could have an impact upon your decision to recuse or not to recuse yourself, it may be more appropriate for you not to make this decision, until such time as ~~the~~ matter ~~comes to your attention~~.

a

is presented to you

Recommend you & the [illegible] ~~Walton~~ [illegible] me to consult w/ it

Resolution Trust Corporation

FAX COVER SHEET

DATE: 2/16/94

TO: Ken Schmalzbach
Dept of Treasury

FROM: Don Rosholt
OFFICE OF ETHICS

FAX NUMBER: (202) 416-2481
TELEPHONE #: (202) 416-2157 (ask for Robin McGill)

TOTAL PAGES: 3

COMMENTS: FY Review

Notice: For our records please call upon receipt of this message atthe aforementioned telephone number. If for any reason this message is inadvertently sent to you, please be advised that dissemination, distribution, or copying of this communication is prohibited. It would be greatly appreciated if the original message is returned to us at the address below (via U.S. Mail). Thanking you in advance.

801 17th Street, NW ■ Washington, DC 20434-0001

```
          TEL:                                            Feb 16'94   12:00

                     Transmit Confirmation Report

      No.              :  001
      Receiver         :  96221176
      Transmitter      :
      Date             :     Feb 16'94   12:00
      Time             :  02'15
      Mode             :     Norm
      Pages            :  04
      Result           :  OK
```

RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

DRAFT

February 16, 1994

MEMORANDUM TO: Roger G. Altman
Interim ~~Acting~~ Chief Executive Officer

FROM: Arthur J. Kusinski
Ethics Officer
and
Designated Agency Ethics Official

SUBJECT: RTC Madison Guaranty Matters

SUMMARY:

You have sought advice from your RTC ethics counselor as to whether your longstanding personal relationship with the President gives rise to a legal obligation to recuse yourself from certain matters that are before the RTC that may affect financial interests of the President or his family. I have carefully considered your inquiry, and conclude that the decision whether to participate in such matters is not governed by ethics statues or regulations. Thus, you have the discretion to participate or not, as you determine to be appropriate. I note, however, that it is not necessary for you to make that decision until such time as the matter comes before you. In fact, it may be prudent for you not to make a decision until then, as other factors may occur in the meantime which could have an impact upon your decision.

DISCUSSION:

The only ethics statue or regulation which is relevant to your request for advice is 5 C.F.R. 2635.502 ("section . 502"), which is entitled "Personal and Business Relationships".[1] That provision

801 17th Street, N.W. Washington, D.C. 20434

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[1] Title 18 U.S. Code, section 208 prevents an official from participating for the Government in a matter affecting a financial interest of the official or certain other persons and organizations. You have neither a personal financial interest in the matters before the RTC nor a relationship with the President

encourages an official who has a relationship with a person who is a party to a Government matter in which the official is called upon to act, and is concerned that the relationship would raise an issue of impartiality, to contact the agency's ethics officials. You have done so.

Ethics officials then must determine whether your relationship with the President is a "covered relationship" as that term is defined by 5 C.F.R. 2635.502(b)(1). Officials have a "covered relationship" with: (1) a "person" with whom the official has or seeks a business, contractual or other financial relationship; (2) a member of their household or a relative with whom they have a close personal relationship; (3) a "person" with whom certain of the official's relatives are have or seek employment or similar relationships; (4) a "person" for whom the official has served as an employee, attorney or in a similar capacity within the last year; and (5) an organization other than a political party in which the official is an active participant such as a chairman of one of the organization's committees. For purposes of these regulations, the term "person" does not include the Federal Government and officials of the Federal Government acting in their official capacities. 5 C.F.R. 2635.102(k). You clearly have none of these relationships with the President, and therefore you are not in a "covered relationship" with him.

In considering your request for advice, I am aware that your only relationship with the President is one that would be fairly characterized as a longstanding personal friendship. However, you and the President do not now and have not in the past participated together in business or financial transactions.

While a personal relationship such as yours with the President is a factor to be considered (along with others) in deciding whether the circumstances raise a question as to your impartiality in a matter that may affect the President's interests, standing alone it is not determinative. The OGE specifically considered whether a "close personal friendship," standing alone, should be considered a "covered relationship," and decided that it should not. 57 F.R. 35026 (1993). As the section .502 regulation operates, only "covered relationships" standing alone raise questions of appearances of loss of impartiality as a statutory or regulatory matter.

I have consulted with the Director and General Counsel of the Office of Government Ethics concerning this matter. They believe that your decision as to whether to participate in an RTC matter that may

---

(who may have such an interest) of the kind that is relevant for purposes of 18 U.S.C. 208. Section 208 would impute to you the financial interest of the President only if he were your general partner or a person with whom you were negotiating or had an arrangement for prospective employment. Thus, that provision does not create any bar to your participation in the RTC's decisions concerning those matters.

affect a financial interest of the President is not a matter that is mandated by ethics statues and regulations. OGE also believes that the ethics advice I provided to you in these circumstances is within the discretion of the ethics official the affected agency; and that the decision whether to participate in RTC matters that may involve the interests of the President with your discretion. I have also consulted with the Designated Agency Ethics Official at the Department of the Treasury who concurs with me in this analysis.

In other words, there are no legal reasons to preclude you from acting on such matters. Whether you decide to recuse or not, there will be no legal objection to your decision.

RECOMMENDATION:

5 CFR 2635 requires e government employees to act impartially when they participate in matters for the Government. However, this provision has no bearing on a decision as to whether to participate in the matter. Thus it cannot provide an independent basis for a legal obligation for you to recuse yourself from a matter.

In making your decision I recognize that you have taken an oath of office to place loyalty to the United States Government, the Constitution, the laws and ethical principles above your private interest or the private interests of others. I recommend that, in making your decision, you take into consideration your longstanding personal relationship with the President. You are also advised to take into consideration the nature and importance of your role as the RTC's CEO in the Madison matter; the sensitivity of this matter; the difficulty in assigning this matter to another individual at the RTC; the likelihood that a reasonable person with full knowledge of the facts would question your impartiality; and the effect that this matter may have upon the President.

The regulations do not require government employees to recuse themselves from actions which are not before them. Therefore, such a decision may be premature. This matter may never come before you as the RTC's CEO. Recognizing that other factors may arise ~~between now and when you have to make a decision~~ which could have an impact upon your decision, it may be more appropriate for you not to make this decision until such time as the matter comes to your attention.

Raise issue [illegible] should [illegible] your impartiality [illegible] based upon [illegible] RTC [illegible]

Recommendation:

5 CFR 2635 requires government employee to act impartially when they participaate in matters for the Government. However, this provision has no bearing on a decision as to whether to paticipate in the matter. Thus it cannot provide an independent basis for a legal obligation for you to recuse yourself from a matter. In making your decision I recognize that you have taken an oath of office to place loyalty to the United States Government, the Constituion, the laws and ethical principles above your private interest or the private interests of others. I recommend that, in making your decision, you take into consideration your longstanding personal relationship with the President. You are also advised to take into concideration the nature and importance of your role as the RTC's CEO in the Madison matter; the sensitivity of this matter; the difficulty in assigning this matter to another individual at the RTC; ~~and~~ the likelyhood that a reasonable person with full knowledge of the facts would question your impartiality, and the effect that ~~you have no financial interest~~ this matter may have an effect upon the President.

[illegible]!

[We note not necessary to make a decision until such time as the matter comes before you. In fact, it may be inappropriate for you to make a decision on your recusal until such time that the matter comes before you. recognizing other factors may occur between now and then that will impact on your decision]

Has ~~more~~ discussion

RTC
Resolution Trust Corporation

FAX COVER SHEET

DATE: 2-10-94

TO: Ken Smalzback
TREASURY

FROM: DONALD L. Rosholt
OFFICE OF ETHICS

FAX NUMBER: (202) 416-2481
TELEPHONE #: (202) 416-2157 (ask for Robin McGill)

TOTAL PAGES: 2

COMMENTS:

Notice: For our records please call upon receipt of this message atthe aforementioned telephone number. If for any reason this message is inadvertently sent to you, please be advised that dissemination, distribution, or copying of this communication is prohibited. It would be greatly appreciated if the original message is returned to us at the address below (via U.S. Mail). Thanking you in advance.

801 17th Street, NW ■ Washington, DC 20434-0001

TEL: Feb 10'94 11:44

Transmit Confirmation Report

No. : 003
Receiver : 96221176
Transmitter :
Date : Feb 10'94 11:44
Time : 00'56
Mode : Norm
Pages : 02
Result : OK

MEMORANDUM FOR ROGER G. ALTMAN
DEPUTY SECRETARY OF THE TREASURY
and
ACTING CHIEF EXECUTIVE OFFICER, RESOLUTION TRUST CORPORATION

FROM: Arthur J. Kusinski
Ethics Officer and Designated Agency Ethics Official, Resolution Trust Corporation

SUBJECT: RTC Madison Guaranty Matters

SUMMARY:

We understand that you have a personal relationship with the President. You have sought advice from your ethics counselors as to whether this relationship gives rise to a legal obligation to recuse yourself from certain matters that are before the RTC that may affect financial interests of the President or his family. We have carefully considered your inquiry, and we conclude that the decision whether to participate in such matters is not governed by ethics statues or regulations. Thus, you have the discretion to participate or not, as you determine to be appropriate.

DISCUSSION:

The only ethics statue or regulation which is relevant to your request for advice is 5 C.F.R. 2635.502 ("section . 502"), which is entitled "Personal and Business Relationships".[1] That provision

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[1] Title 18 U.S. Code, section 208 prevents an official from participating for the Government in a matter affecting a financial interest of the official or certain other persons and organizations. You have neither a personal financial interest in the matters before the RTC nor a relationship with the President (who may have such an interest) of the kind that is relevant for purposes of 18 U.S.C. 208. Section 208 would impute to you the financial interest of the President only if he were your general partner or a person with whom you were negotiating or had an arrangement for prospective employment. Thus, that provision does not create any bar to your participation in the RTC's decisions concerning those matters.

We also note that another ethics provision, 5 C.F.R. 2635.101(b)(8), requires that Government officials act impartially when they do participate in the matter. Thus, it cannot provide an

encourages an official who has a relationship with a person who is a party to a Government matter in which the official is called upon to act, and is concerned that the relationship would raise an issue of impartiality, to contact the agency's ethics officials. You have done so.

Ethics officials then must determine whether your relationship with the President is a "covered relationship" as that term is defined by 5 C.F.R. 2635.502(b)(1). Officials have a "covered relationship" with: (1) a "person" with whom the official has or seeks a business, contractual or other financial relationship; (2) a member of their household or a relative with whom they have a close personal relationship; (3) a "person" with whom certain of the official's relatives are have or seek employment or similar relationships; (4) a "person" for whom the official has served as an employee, attorney or in a similar capacity within the last year; and (5) an organization other than a political party in which the official is an active participant such as a chairman of one of the organization's committees. For purposes of these regulations, the term "person" does not include the Federal Government and officials of the Federal Government acting in their official capacities. 5 C.F.R. 2635.102(k). You clearly have none of these relationships with the President, and therefore you are not in a "covered relationship" with him.

In considering your request for advice, we are aware that you have a relationship with the President that is fairly characterized as a longstanding personal friendship. However, you and the President do not now and have not in the past participated together in business or financial transactions.

While a personal relationship such as yours with the President is a factor to be considered (along with others) in deciding whether the circumstances raise a question as to your impartiality in a matter that may affect the President's interests, standing alone it is not determinative. The OGE specifically considered whether a "close personal friendship," standing alone, should be considered a "covered relationship," and decided that it should not. 57 F.R. 35026 (1993). As the section .502 regulation operates, only "covered relationships" standing alone raise questions of appearances of loss of impartiality as a statutory or regulatory matter.

We have consulted with the Director and General Counsel of the Office of Government Ethics concerning this matter. They believe that your decision as to whether to participate in an RTC matter that may affect a financial interest of the President is not a matter that is mandated by ethics statues and regulations. OGE

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independent basis for a legal obligation for you to recuse yourself from a matter.

also believes that the ethics advice we provide to you in these circumstances is within the discretion of the ethics officials of the affected agencies; and that the decision whether to participate in RTC matters that may involve the interests of the President with your discretion. In other words, there are no legal reasons to preclude you from acting on such matters. Whether you decide to recuse or not, there will be no legal objection to your decision.

DEPARTMENT OF THE TREASURY
WASHINGTON

Office of the Assistant General Counsel
for Administrative and General Law
1500 Pennsylvania Ave., N.W., Room 1410
Washington, D.C. 20220.

Telephone: (202) 622-0450 FAX: (202) 622-1176

DATE: 2-10-94 TIME: 12:10

NUMBER OF PAGES TO FOLLOW: 2

TO: Don Rosholt

FROM: Ken Schmalzbach

SUBJECT: Draft Altman memo

Addressee FAX No. 416-2481 Confirmation No. 416-2157

Notes and Special Instructions:

Unclassified

MEMORANDUM FOR ROGER C. ALTMAN
DEPUTY SECRETARY OF THE TREASURY
and
ACTING CHIEF EXECUTIVE OFFICER, RESOLUTION TRUST CORPORATION

FROM: Dennis I. Foreman
Deputy General Counsel and Designated Agency Ethics Official, Department of the Treasury

SUBJECT: *RTC Madison Guaranty Matters*

SUMMARY:

We understand that you have a personal relationship with the President. You have sought advice from your ethics counselors as to whether this relationship gives rise to a legal obligation to recuse yourself from certain matters that are before the RTC that may affect financial interests of the President or his family. We have carefully considered your inquiry, and we conclude that the decision whether to participate in such matters is not governed by ethics statutes or regulations. Thus, you have the discretion to participate or not, as you determine to be appropriate.

DISCUSSION:

The only ethics statute or regulation which is relevant to your request for advice is 5 C.F.R. 2635.502 ("section .502"), which is entitled "Personal and Business Relationships".[1] That provision encourages an official who has a relationship with a person who is a party to a Government matter in which the official is called upon to act, and is concerned that the relationship would raise an issue of impartiality, to contact the agency's ethics officials. You have done so.

---

[1] Title 18 U.S. Code, section 208 prevents an official from participating for the Government in a matter affecting a financial interest of the official or certain other persons and organizations. You have neither a personal financial interest in the matters before the RTC nor a relationship with the President (who may have such an interest) of the kind that is relevant for purposes of 18 U.S.C. 208. Section 208 would impute to you the financial interest of the President only if he were your general partner or a person with whom you were negotiating or had an arrangement for prospective employment. Thus, that provision does not create any bar to your participation in the RTC's decisions concerning those matters.

We also note that another ethics provision, 5 C.F.R. 2635.101(b)(8), requires that Government officials act impartially when they do participate in a matter for the Government. However, this provision has no bearing on a decision as to whether to participate in the matter. Thus, it cannot provide an independent basis for a legal obligation for you to recuse yourself from a matter.

Ethics officials then must determine whether your relationship with the President is a "covered relationship" as that term is defined by 5 C.F.R. 2635.502(b)(1). Officials have a "covered relationship" with: (1) a "person" with whom the official has or seeks a business, contractual or other financial relationship; (2) a member of their household or a relative with whom they have a close personal relationship; (3) a "person" with whom certain of the official's relatives are have or seek employment or similar relationships; (4) a "person" for whom the official has served as an employee, attorney or in a similar capacity within the last year; and (5) an organization other than a political party in which the official is an active participant such as a chairman of one of the organization's committees. For purposes of these regulations, the term "person" does not include the Federal Government and officials of the Federal Government acting in their official capacities. 5 C.F.R. 2635.102(k). You clearly have none of these relationships with the President, and therefore you are not in a "covered relationship" with him.

In considering your request for advice, we are aware that you have a relationship with the President that is fairly characterized as a longstanding personal friendship. However, you and the President do not now and have not in the past participated together in business or financial transactions.

While a personal relationship such as yours with the President is a factor to be considered (along with others) in deciding whether the circumstances raise a question as to your impartiality in a matter that may affect the President's interests, standing alone it is not determinative. The OGE specifically considered whether a "close personal friendship," standing alone, should be considered a "covered relationship," and decided that it should not. 57 F.R. 35026 (1993). As the section .502 regulation operates, only "covered relationships" standing alone raise questions of appearances of loss of impartiality as a statutory or regulatory matter.

[illegible] regulation [illegible] in this case,

We have consulted with the Director and General Counsel of the Office of Government Ethics concerning this matter. They believe that your decision as to whether to participate in an RTC matter that may affect a financial interest of the President is not a matter that is mandated by ethics statutes and regulations. OGE also believes that the ethics advice we provide to you in these circumstances is within the discretion of the ethics officials of the affected agencies; and that the decision whether to participate in RTC matters that may involve the interests of the President is within your discretion. In other words, there are no legal reasons to preclude you from acting on such matters. Whether you decide to recuse or not, there will be no legal objection to your decision.

TOPS NO. 4002

WHILE YOU WERE AWAY

FOR RM DATE 2/9 TIME 225 A.M. P.M.

M [illegible]

OF

PHONE
AREA CODE NUMBER EXTENSION

MESSAGE

☐ PHONED
☐ RETURNED YOUR CALL
☑ PLEASE CALL
☐ WILL CALL AGAIN
☐ CAME TO SEE YOU
☐ WANTS TO SEE YOU

SIGNED

TOPS FORM 4002

Litho in U.S.A.

WHILE YOU WERE AWAY

FOR [illegible] Don DATE 2/9 TIME 155 A.M. P.M.

M Ken Schmalzbach

OF

PHONE 922-0450
AREA CODE NUMBER EXTENSION

MESSAGE

☑ PHONED
☐ RETURNED YOUR CALL
☑ PLEASE CALL
☐ WILL CALL AGAIN
☐ CAME TO SEE YOU
☐ WANTS TO SEE YOU

SIGNED

TOPS FORM 4002

TOPS NO. 4002

WHILE YOU WERE AWAY

FOR [illegible] Don DATE 2/9 TIME A.M. P.M.

M [illegible]

OF

PHONE [illegible]
AREA CODE NUMBER EXTENSION

MESSAGE

☐ PHONED
☐ RETURNED YOUR CALL
☐ PLEASE CALL
☐ WILL CALL AGAIN
☐ CAME TO SEE YOU
☐ WANTS TO SEE YOU

SIGNED

TOPS FORM 4002

Litho in U.S.A.

WHILE YOU WERE AWAY

FOR [illegible] DATE [illegible] TIME [illegible] A.M. P.M.

M [illegible]

OF

PHONE [illegible]
AREA CODE NUMBER EXTENSION

MESSAGE

☑ PHONED
☐ RETURNED YOUR CALL
☑ PLEASE CALL
☐ WILL CALL AGAIN
☐ CAME TO SEE YOU
☐ WANTS TO

RESOLUTION TRUST CORPORATION
OFFICE OF GOVERNMENTAL RELATIONS
CORRESPONDENCE REFERRAL

Document: 12765
Document Date: 94/02/08
Input Date: 94/02/09
Due Date: 94/02/24

NAME: D'Amato, Honorable Alfonse M.
Ranking Republican
Committee on Banking, Housing, and
ADDRESS: Urban Affairs, United States Senate
Washington DC 20510

Copies To:
Standard Dist.
Ellen Kulka
Krista Kamper
OGR Staff
OGR Reps

Synopsis: QUESTIONS RE THE NUMBER OF TIMES THE RTC [CEO] HAS [RECUSE]D HIMSELF FROM INVOLVEMENT IN RTC MATTERS, A [SUMMARY] OF THE GROUNDS LEADING TO RECUSAL DECISION, RTC [POLICY] RE RECUSALS. [IMPORTANT]

Action: Prepare for Peter E. Knight's signature

OLA Contact: Neal E. Logue (202) 416-7099

INSTRUCTIONS

Author of the draft response and person(s) reviewing response should sign this routing sheet. Please forward draft response by DUE DATE with this completed form to OLA (Renee Kelly-Room 1062A-801 17th Street) with WordPerfect disk or by mail (Renee Kelly@ OLA@ RTCDC). Routing sheet may be faxed to (202)416-4413.

* This form is necessary for review purposes *

Assigned To: Art Kusinski
OLA-OAC John Lynn - Contracts

Date:
94/02/09

AUTHOR: ______________________ **PHONE:** ______________

REVIEWED BY:	DATE IN	DATE OUT	REVIEWED BY:	DATE IN	DATE OUT

To: Peter E. Knight@OGR@RTCDC
Cc: Casey Carter@OGR@RTCDC,Linda D. Washington@OGR@RTCDC
F :
From: Carol Obrien@OGR@RTCDC
Subject: D'Amato/recusal letter
Date: Tuesday, February 8, 1994 17:11:43 EST
Attach:
Certify: Y
Forwarded by:

Art Kusinski said this should be assigned to him. He has a copy and will begin work on it in the a.m. We will make sure that Ellen Kulka also has an informational copy.

DONALD W. RIEGLE, JR., MICHIGAN, CHAIRMAN

PAUL S. SARBANES, MARYLAND
CHRISTOPHER J. DODD, CONNECTICUT
JIM SASSER, TENNESSEE
RICHARD C. SHELBY, ALABAMA
JOHN F. KERRY, MASSACHUSETTS
RICHARD H. BRYAN, NEVADA
BARBARA BOXER, CALIFORNIA
BEN NIGHTHORSE CAMPBELL, COLORADO
CAROL MOSELEY-BRAUN, ILLINOIS
PATTY MURRAY, WASHINGTON

ALFONSE M. D'AMATO, NEW YORK
PHIL GRAMM, TEXAS
CHRISTOPHER S. BOND, MISSOURI
CONNIE MACK, FLORIDA
LAUCH FAIRCLOTH, NORTH CAROLINA
ROBERT F. BENNETT, UTAH
WILLIAM V. ROTH, JR., DELAWARE
PETE V. DOMENICI, NEW MEXICO

STEVEN B. HARRIS, STAFF DIRECTOR AND CHIEF COUNSEL
HOWARD A. MENELL, REPUBLICAN STAFF DIRECTOR

United States Senate
COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS
WASHINGTON, DC 20510-6075

February 8, 1994

Mr. Peter Knight
Director
Office of Governmental Relations
Resolution Trust Corporation
801 17th Street, NW
Washington, DC 20434

Dear Mr. Knight:

Pursuant to your conversation with Doug Nappi, of the Banking Committee, please provide the answers to the following questions:

1) The number of times that an RTC Chief Executive Officer has recused himself from involvement in matters before the RTC;
2) A summary of the grounds that led to the recusal decision; and
3) The RTC's policies or guidelines pertaining to recusals;

If you have any questions regarding this request, Mr. Nappi can be reached at (202) 224-3737.

Sincerely,

Alfonse D'Amato

M. D'Amato
g Republican Member

2/8 5:15

Art,
Please give me a
call - Thanks
Carol O'Brien
67314

FEBRUARY 1994

7 MONDAY

10:00 Treasury - Altman

Lunch

2:00 Jim Barker
re Cahill matter

8 TUESDAY

9:00 Ellen Kulka
at her 278

Lunch

5:30-6:30 DFG
Farewell Dinner

mail Mike's
letters

9 WEDNESDAY

10:00 OIG/Bryan Jupiter
[Stand-by: Ex. Comm. on
PC Towers, Atlanta]

Lunch

3 Ethics Officers
Videoconference

FEBRUARY

S	M	T	W	T	F	S
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MARCH

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1/21/94

[redacted] c [illegible] P. [illegible], [illegible] [illegible] [illegible] Carter BC JCB Bowman.

[illegible] → Discussion of BACKGROUND

[redacted]

[redacted]

[redacted]

— LEACH: *

Memo — on [illegible] — to [illegible]

— [redacted]

Rose Law firm.

10 Week Beginning January

December 1993

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January 1994

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February 1994

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MONDAY, JANUARY 10	10	TUESDAY, JANUARY 11	11	WEDNESDAY, JANUARY 12	12
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7:15		7:15		7:15	
7:30		7:30		7:30	
7:45		7:45		7:45	
8		8		8	
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12		12		12	
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1:30	ETHIC TRAINING	1:30		1:30	
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7		7		7	
7:15		7:15		7:15	
7:30		7:30		7:30	
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To: John C. Binkley@Legal-ra@RTCDC
Cc: ajk
Bcc:
From: Donald L. Rosholt@Ethics@RTCDC
Subject: Treasury request
Date: Monday, April 25, 1994 12:56:51 EDT
Attach:
Certify: N
Forwarded by:

I received another call from Treasury on the issue we gave you this morning. The issue is in response to Qs & As resulting from Treasury's appropriation hearing.

The Designated Agency Ethics Official (DAEO) at Treasury has been asked to provide this as it was an attachment to a document that he provided to Treasury officials indicating that he concurred in the determination by Art.

If you want a copy of their request pls let me know and I will ask for one for you.

Don

To: Donald L. Rosholt@Ethics@RTCDC
Cc: Arthur J. Kusinski@Ethics@RTCDC
William C. Collishaw@Legal-ra@RTCDC
Peter E. Knight@OGR@RTCDC
Bcc:
From: John C. Binkley@Legal-ra@RTCDC
Subject: Ethics opinion
Date: Monday, April 25, 1994 13:56:01 EDT
Attach:
Certify: Y
Forwarded by:

Don: I have reviewed Art's opinion as to whether Mr. Altman had to recuse himself in the Madison matter. I believe a proper characterization of the document is a final opinion of the Ethics Office and not necessarily a recommendation to Mr. Altman (although I realize there is a very short recomendation portion that could be segregable from the opinion--I think it is deminimus in nature). Consequently, I am recommending that the document can be disclosed and Bill concurs. However, since it is an RTC document, Bill and I believe that it is more appropriately disclosed by the RTC and not by Treasury. This is consistant with some other recent disclosures to the Hill of documents that Treasury had an involvement. Since you have a copy of the request and the document, we can respond though OGR. It is for that reason I have put Peter on as cc.

If you have an questions, please give me a call.

To: Ellen B. Kulka@Legal-sc@RTCDC
Cc: John C. Binkley@Legal-ra@RTCDC
Peter E. Knight@OGR@RTCDC
Bcc:
From: Arthur J. Kusinski@Ethics@RTCDC
Subject: Release of Altman Recusal Memo
Date: Thursday, May 5, 1994 10:21:06 EDT
Attach:
Certify: N
Forwarded by:

Ellen -- FYI, yesterday we released to the Hill the memorandum I sent to Mr. Altman in February advising him that he was under no legal obligation to recuse himself on the Madison/Whitewater matters because of his relationship to the Prseident. This was done only after clearance by Treasury and, we understand, Mr. Altman's personal OK. We also coordinated and cleared it with Jack Binkley and Peter Knight (who actually sent the letter to the Hill).

I'm comfortable with the release. The memorandum is correct on the law and was cleared by OGE. And, it was written with the knowledge that it would someday be requested by the Hill.

Art

To: Carol Obrien@OGR@RTCDC,John C. Binkley@Legal-ra@RTCDC
Cc:
Bcc:
From: Donald L. Rosholt@Ethics@RTCDC
Subject: Altman recusal
Date: Tuesday, April 26, 1994 13:56:24 EDT
Attach: P:\PUBLIC\WP\EEP\CEO\WOLF
Certify: N
Forwarded by:

Attached is the most recent version of the cover memo to the House Appropriations Committee transmitting a copy of a memo from Art to Altman regarding his recusal from Madison matters.

They requested that it not be sent until they send their response as it wouldn't make alot of sence.

Carol, Jack Binkley may have some comments and should approve of it from Legal.

o: Peter E. Knight@OGR@RTCDC
John C. Binkley@Legal-ra@RTCDC
c:
cc:
rom: Donald L. Rosholt@Ethics@RTCDC
ubject: Altman recusal
ate: Tuesday, April 26, 1994 13:43:02 EDT
tach:
ertify: N
orwarded by:

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just finished talking with the Department of Treasury on the memo I gave you ast night. They had some technical corrections. They also asked that the ast line referrencing confidentiality be deleted. They also asked that it ot be sent until they send their document and theuy would let me know when hat is to be done.

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

February 18, 1994

MEMORANDUM TO: Roger G. Altman
Interim Chief Executive Officer

FROM: Arthur J. Kusinski
Ethics Officer
and
Designated Agency Ethics Official
Arthur J. Kusinski

SUBJECT: RTC Madison Guaranty Matters

SUMMARY:

You have sought advice from your RTC ethics counselor as to whether your longstanding personal relationship with the President gives rise to a legal obligation to recuse yourself from matters that may come before the RTC that may affect financial interests of the President or his family. I have carefully considered your inquiry, and conclude that the decision whether to participate in such matters is not mandated by ethics statues or regulations. Thus, you have the discretion to participate or not, as you determine to be appropriate. I note, however, that it is not necessary for you to decide whether to participate in any particular matter until such time as the matter comes before you.

DISCUSSION:

The only ethics statute or regulation which is relevant to your request for advice is 5 CFR 2635.502 ("section 502"), which is entitled "Personal and Business Relationships". That provision encourages an official who has a relationship with a person who is a party to a Government matter in which the official is called upon to act, and is concerned that the relationship would raise an issue of impartiality, to contact the agency's ethics officials. You have done so.

Ethics officials then must determine whether your relationship with the President is a "covered relationship" as that term is defined by 5 CFR 2635.502(b)(1). Officials have a "covered relationship" with: (1) a "person" with whom the official has or seeks a business, contractual or other financial relationship; (2) a member of their household or a relative with whom they have a close personal relationship; (3) a "person" with whom certain of the

801 17th Street, N.W. Washington, D.C. 20434

official's relatives has or seeks employment or similar relationships; (4) a "person" for whom the official has served as an employee, attorney or in a similar capacity within the last year; and (5) an organization other than a political party in which the official is an active participant such as a chairman of one of the organization's committees. For purposes of these regulations, the term "person" does not include the Federal Government and/or officials of the Federal Government acting in their official capacities. 5 CFR 2635.102(k). You clearly have none of these relationships with the President, and therefore you are not in a "covered relationship" with him. As the section 502 regulation operates, only "covered relationships" standing alone raise questions of appearances of loss of impartiality as a statutory or regulatory matter.

In considering your request for advice, I am aware that your only relationship with the President is one that would be fairly characterized as a longstanding personal friendship. However, you and the President do not now and have not in the past participated together in business or financial transactions[1]. While a personal relationship such as yours with the President is a factor to be considered (along with others) in deciding whether the circumstances raise a question as to your impartiality in a matter that may affect the President's interests, standing alone it is not determinative. In its Preamble to the publication of the final Executive branch standards of conduct regulations, OGE specifically considered whether a "close personal friendship," standing alone, should be considered a "covered relationship," and decided that it should not. 57 FR 35026 (1993).

I have consulted with the Office of Government Ethics concerning this issue. OGE believes that your decision, as to whether to participate in an RTC matter that may affect a financial interest of the President, is not a matter that is mandated by ethics statutes and regulations. OGE also believes that the ethics advice I provided to you in these circumstances is within the discretion

of the ethics official of the affected agency; and that the decision whether to participate in RTC matters that may involve the interests of the President is within your discretion. I have also consulted with the Designated Agency Ethics Official at the Department of the Treasury who concurs with me in this analysis.

---

[1] Title 18 U.S. Code, section 208 prevents an official from participating for the Government in a matter affecting a financial interest of the official or certain other persons and organizations. You have neither a personal financial interest in the matters before the RTC nor a relationship with the President (who may have such an interest) of the kind that is relevant for purposes of 18 U.S.C. 208. Section 208 would impute to you the financial interest of the President only if he were your general partner or a person with whom you were negotiating or had an arrangement for prospective employment. Thus, that provision does not create any bar to your participation in the RTC's decisions concerning those matters.

In summary, it is my opinion that there is no legal reason to preclude you from acting on such matters. Regardless of whether you decide to recuse yourself, there will be no legal objection to that decision.

RECOMMENDATION:

In deciding whether to recuse yourself, I recommend that you consider certain factors in making your decision. Certainly, you should take into consideration your longstanding personal relationship with the President. You should also consider the nature and importance of your role as the RTC's CEO in the Madison matter; the sensitivity of this matter; the difficulty in assigning this matter to another individual at the RTC; the likelihood that a reasonable person with full knowledge of the facts would question your impartiality; and the effect that this matter may have upon the President's financial interests. This listing is not exclusive, and you may have other factors which you may want to consider as well. That is within your discretion. In considering these factors, I of course stand ready to advise you if you should so desire.

Finally, the regulations do not require government officials to recuse themselves from actions which are not specifically before them. Therefore, you may wish to defer a decision on your recusal until such time as a particular aspect of the Madison Guaranty matter is presented to you for consideration or decision.[2]

---

[2] I understand that the statute of limitations may be extended.

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

FAX COVER SHEET

DATE: 4-25-94

TO: J. Binkley

FROM: D. Posholff
OFFICE OF ETHICS

FAX NUMBER: (202) 416-2481

PAGES TO FOLLOW: 3

If all pages of this transmission are not received or if you have any problems receiving this document, please call Peggie Gervase, (202) 416-2080.

COMMENTS:

Notice: If the reader of this message is not the intended recipient, please be advised that any dissemination, distribution, or copying of this communication is prohibited. If you have received this communication in error, please notify us immediately by calling the sender shown above. We would also appreciate your returning the original message to us at the address listed below via U.S. Mail. Thank you for your cooperation.

801 17th Street, N.W. Washington, D.C. 20434

The Honorable Frank R. Wolf
Treasury, Postal and General Government Appropriations
Questions for Secretary Bentsen

WHITE HOUSE/TREASURY MEETINGS ON MADISON-WHITEWATER

~~512~~ 1. **Last Friday I requested that your Treasury Inspector General conduct an investigation of the recent meetings of Treasury officials with the White House. Yesterday I was informed that in contacting the special counsel regarding this matter, the IG's office was told not to proceed with their investigation while the special counsel's investigation is addressing this matter.**

512 -- **What is your understanding of the status of the OGE investigation that you requested in light of the subpoenas issued by Special Counsel Fiske? Will their investigation continue and will they also be asked to discontinue any action while the special counsel pursues this matter?**

513 -- **Why did you choose to ask the Office of Government Ethics to review this matter rather than your own Treasury IG?**

514 -- **Were you aware that the Office of Government Ethics does not conduct investigations? Did you know that they actually only review the investigations of other agencies which in this case would be the White House?**

515 -- **Did you know that in this case an OGE investigation would consist of the White House Counsel's office investigating itself and then the OGE subsequently reviewing this investigation?**

2. **Were you aware of Congressman Leach's February 3, 1994 letter to Mr. Altman asking him to recuse himself from RTC matters?** (It was reported in the press.

516 -- **Did you discuss this matter with Mr. Altman at that time?**

517 -- **Were you aware of Mr. Altman's letter last year recommending against extension of the statute of limitations for**

April 25, 1994

Jenny Mummert, (202) 225-5834
Subcommittee on Treasury, Postal Service,
and General Governmental Appropriations
of the House Appropriations Committee
United States House of Representatives
U.S. Capitol Building, Rm-164
Washington, D.C. 20515

Dear Ms. Mummert:

This letter is in response to question 3 of Congressman Wolf's list of questions submitted by the Committee to the Department of the Treasury after its March 8, 1994 hearing on the Treasury's FY '95 budget request. The Department of the Treasury has asked the Resolution Trust Corporation to release the enclosed copy of a memorandum, dated February 18, 1994, from our Designated Agency Ethics Official, Arthur J. Kusinski, to Mr. Altman regarding Mr. Altman's recusal from RTC Madison Guaranty matters. It is our understanding that this document, from Mr. Kusinski to Mr. Altman, was also included as an attachment to a Treasury Department document, dated February 23, 1994, from Dennis I. Foreman, Deputy General Counsel and Designated Agency Ethics Official, Department of Treasury, to Deputy Secretary Altman.

Sincerely,

Peter E. Knight
Director
Office of Governmental Relations
(202) 416-2116

cc: Roger C. Altman
Ellen B. Kulka
Arthur J. Kusinski
Dennis I. Foreman

civil lawsuits brought against S&L wrongdoers? Did you support this decision? Do you realize this recommendation would have in effect precluded suits against Madison-Whitewater? Did anyone at the Department lobby against this provision when it passed last year?

518 – Does it bother you that the meetings that Mr. Altman had were conducted after the request made by Mr. Leach for Mr. Altman to recuse himself?

519 – Mr. Leach wrote to Mr. Altman on February 3, "it has been an awkward situation to have a presidentially appointed and confirmed officier of the Treasury Department also head an independent federal agency, the Resolution Trust Corporation." Why has it taken over a year for the Clinton Administration to appoint an RTC head?

520 – How can a political appointee of an executive branch department make what are in effect law enforcement decisions for a independent federal agency if they touch upon the President as they may in this case?

521 – Do you think it is ethically questionable for a political appointee of the Department of Treasury to make decisions for an independent federal agency when the President or the First Lady may be implicated in enforcement and civil actions?

522 Given recent events, was not Mr. Leach's letter asking for a recusal by Mr. Altman appropriate?

3. In a February 23, 1993 letter General Counsel Jean Hanson wrote to Congressman Leach that Deputy Secretary Altman consulted ethics officials at the RTC and Treasury's Designated Agency Ethics official in consultation with the Office of Government Ethics.

523 – Could you provide for this committee these ethics advisory opinions.

524 – Given that this letter was written after both Mr. Altman's meetings with the White House staff and Ms. Hanson's two meetings with White House staff, does this raise any concern in your mind?

525 – Do you believe this Feb. 23, 1993 from the General Counsel

was forthright with the facts in this matter?

526 – **Weren't the meetings that Treasury officials had with the White House exactly what Congressman Leach was concerned about?**

527 – **Were the ethics officers advised of the meetings with the White House when making these decisions?**

3. **Having represented thousands of federal employees over the years I am troubled by the prospect of career employees being put in compromising positions with matters such as this. When the Deputy Secretary or General Counsel approach individuals in the Treasury Department or one of the independent agencies to do something that is improper or unethical, they are put in a very difficult situation.**

528 – **How are you working to resolve this in light of recent events?**

529 – **Have you talked with RTC senior vice president Bill Roelle about the briefing that he provided Ms. Hanson on the status of the request for an investigation into Madison? Did he know to what purposes she intended to use such a briefing?**

530 4. **When did you first learn of each of these meetings? How do you know whether or not other such meetings may have occurred?**

5. **On Sunday, The Washington Post said the White House has been guilty of "improprieties that a child of four could have figured out." Your Chief of Staff, Josh Steiner, is quoted as saying there was nothing wrong in conferring with the White House about this matter. With whom do you agree? When did Mr. Steiner first inform you of his involvement in meeting with the White House? Was he working for you or Mr. Altman at the time of the meeting he attended with the White House?** 531

6. **One aspect that is particularly troubling in this affair is that even after the Altman meeting was disclosed, the Treasury Department was not forthcoming about the additional meetings. In fact, Ms. Hanson who attended the hearing with Mr. Altman mentioned nothing about the earlier fall meetings in which she discussed RTC "criminal referrals" with White House Counsel Nussbaum and other White House staff members. In these referrals, the Clintons were named as possible beneficiaries of the S&L's illegal activities.** [illegible]

To: Donald L. Rosholt@Ethics@RTCDC,Carol Obrien@OGR@RTCDC
Cc: William C. Collishaw@Legal-ra@RTCDC
Bcc:
From: John C. Binkley@Legal-ra@RTCDC
Subject: re: Altman recusal
Date: Tuesday, April 26, 1994 17:45:44 EDT
Attach:
Certify: Y
Forwarded by:

Only comment is that the last sentence which refers to Trewasury need not be part of our letter. All we need to say is treasury asked us to release and here it is.

jack

To: Carol Obrien@OGR@RTCDC,John C. Binkley@Legal-ra@RTCDC
Cc:
Bcc:
From: Donald L. Rosholt@Ethics@RTCDC
Subject: Altman recusal
Date: Tuesday, April 26, 1994 13:56:24 EDT
Attach: P:\PUBLIC\WP\EEP\CEO\WOLF
Certify: N
Forwarded by:

Attached is the most recent version of the cover memo to the House Appropriations Committee transmitting a copy of a memo from Art to Altman regarding his recusal from Madison matters.

They requested that it not be sent until they send their response as it wouldn't make alot of sence.

Carol, Jack Binkley may have some comments and should approve of it from Legal.

To: Peter E. Knight@OGR@RTCDC
John C. Binkley@Legal-ra@RTCDC
Cc:
Bcc:
From: Donald L. Rosholt@Ethics@RTCDC
Subject: Altman recusal
Date: Tuesday, April 26, 1994 13:43:02 EDT
Attach:
Certify: N
Forwarded by:

I just finished talking with the Department of Treasury on the memo I gave you last night. They had some technical corrections. They also asked that the last line referrencing confidentiality be deleted. They also asked that it not be sent until they send their document and theuy would let me know when that is to be done.

To: Peter E. Knight@OGR@RTCDC
John C. Binkley@Legal-ra@RTCDC
Cc: ajk
Bcc:
From: Donald L. Rosholt@Ethics@RTCDC
Subject: Altman recusal
Date: Tuesday, April 26, 1994 8:06:15 EDT
Attach: P:\PUBLIC\WP\EEP\CEO\WOLF
Certify: N
Forwarded by:

The attached document includes the revision I mentioned in my e-mail last night resulting from the change of the addressee. The letter when originally drafted was addressed to Congressman Wolf but was changed to be addressed to a Committee staff member. Unless I hear from you I will presume that our office has completed its responsibility in this matter. Thanks for your help in seeing that this request is completed.

To: Roger C. Altman

From: Peter E. Knight

Re: Status Report on Leach Investigation

Date: December 28, 1993

At the request of Jean Hanson, I will prepare regular status reports on the RTC's response to Rep. Leach's request for documents relating to Madison Guaranty.

The broad scope of the request could cover more than 200,000 pages of documents. This includes 39 linear feet of legal documents, 207 boxes of investigative files, 165 boxes of general institution documents, 45 roles of microfiche of institution records, 30 boxes of contractor files, asset files, and various other categories. We are asking Rep. Leach's staff to narrow the request by reviewing an extensive inventory of documents which we hope to have completed by January 6.

Last Week:

We have established a working group of OGR (Office of Governmental Relations), Legal, Investigations, and FOIA (Freedom of Information Act) staff that will assemble, itemize, and analyze documents. The analysis will be to ensure that privacy, privilege, and the Department of Justice's concerns are protected. All communication with Rep. Leach's staff will be coordinated by OGR.

This week, Rep. Leach's staff reviewed public legal documents, contracting information, and resolutions documents in Washington and Kansas City. We hope to have Madison Board minutes redacted by FOIA staff for review by Rep. Leach's staff within a week and a half.

DOJ Concerns:

Attached is a letter we received from the Criminal Division at Justice which instructs us to consult them before providing any criminal referrals or documents which reflect Justice's information requests to the RTC. While this is a narrow scope of documents, the letter does tell the RTC to "make every effort to maintain the integrity of the RTC files to the maximum possible extent."

We are expecting to get another letter from Justice the end of next week that will expand the scope of protected documents to include all documents that were attached to criminal referrals. We will not provide any investigations documents until this point is clarified.

Legal Issues:

Our attorneys are reviewing the legal standing of the Leach request in anticipation of future discussions with Rep. Leach over whether or not this is an official committee request. Leach's staff told me on December 23 that he would be providing us with legal analysis prepared by the House Counsel that supports the contention that this is an official committee investigation. Leach's staff has not yet presented any legal material on this point, and it is doubtful that our position will change.

Our attorneys are also examining the question of whether or not our providing material to the Congressman would con~~stitute a waiver of FOIA exemptions and~~ require us to make all material provided to him available to the public (if requested).

Summary of actions:

12/23/93:	RTC OGR and legal staff met with Rep. Leach's staff to start the process initiated by your response to Rep. Leach. We informed Rep. Leach's staff that efforts were underway to locate all Madison documents and to prepare an inventory to facilitate narrowing the amount of documents requested.
12/27/93	Established and RTC working group (from Washington and Kansas City) to include staff from OGR, Legal, Investigations, and the FOIA unit.
12/28/93	Rep. Leach's staff came to Washington RTC offices to review public legal documents relating to Madison.'
12/29/93	Washington OGR and Legal staff traveled to Kansas City and met with senior legal, investigations, and executive staff to develop a coordinated response effort.
12/30/93	Rep. Leach's staff visited the Kansas City office to review contracting documents, an inventory of Madison's assets, redacted Congressional inquiries relating to Madison, and lists of all legal contracts and matters pending. The staff also visited our Iron Mountain document storage facility where we have over 120,000 boxes of files stored.

cc: Jean Hanson
Dennis Geer
James Barker

To: Roger C. Altman

From: Peter E. Knight

Re: Response to Leach request for information relating to Madison

There are several issues raised by the Leach letter that must be considered in any response.

Status as a committee investigation: While the letter refers to an investigation of the House Banking Committee Minority, there is in fact no committee status attributed to such a group. The minority cannot issue subpoenas, convene hearings, or approve staff travel without the approval of the Chairman. This inquiry is therefore coming from a Congressional office and not a committee or subcommittee. This is an important consideration with respect to the Privacy Act, since the RTC may release private information only in response to an official committee request (on committee stationery signed by the chairman). There are criminal penalties for violating the Privacy Act. You may recall that earlier this year, we insisted that a request of Rep. Schroeder be recast as a request from Chairman McCloskey of the Subcommittee on Civil Service of the House Committee on Post Office and Civil Service to facilitate providing her the requested information. In that instance, Chairman McCloskey agreed to her request. Obviously a request from Chairman Gonzalez or any of the subcommittee chairmen would remove any Privacy Act concerns.

Protection of privileged information: The second matter deals with the protection of privileged material as it relates to ongoing civil litigation. In the past year, for example, the RTC has entered into extensive discussions with Senate Banking Committee Chairman Riegle, Senator Wirth, Representative Schroeder, and House Banking Committee Chairman Gonzalez over similar questions surrounding the matter of protecting the confidentiality of privileged material.

Criminal investigations: The final question concerns ongoing criminal investigations. As a matter of routine, when the RTC makes a criminal referral, the Justice Department is responsible for determining which documents it wishes to protect as pat of its ongoing criminal investigations. We are still awaiting Justice's letter on this matter.

R

Suggested draft: The draft response to Rep. Leach makes clear that the RTC will cooperate with the Congressman's investigation, although it also makes clear the RTC will act as it has in the past with respect to questions of the Privacy Act, privileged information, and criminal investigations.

RTC staff is working to develop an inventory of all the documents covered by Rep. Leach's broad request, and that effort should be completed early in January.

Rep. Leach's staff has been in daily contact with my office. I have assured them that work is underway to identify and locate all the documents requested.

Rep. Leach will not be pleased with the fact that we are not treating his request as a committee investigation, but our interpretation is ~~be~~ shared by the FDIC, and the OTS. The letter does make clear, however, that we are willing to discuss with Leach's staff all documents in our inventory th~~at do not come un~~der ~~the Justice purview that may be able to be reviewed under certain~~ circumstances under which it ~~[illegible]~~ be reviewed.

BACKGROUND ON QUESTIONS COMING FROM COMMITTEE MEMBERS RELATING TO MADISON

- At the present time the RTC is cooperating with the investigations of individual members (Rep. Leach/Sen. D'Amato) to the fullest extent possible under the law.

- Absent a request from the Committee, the RTC is limited with respect to three general areas:

    - information regarding the personal and corporate financial records in the its possession;

    - information relating to criminal investigations; and

    - material relating to possible civil litigation.

- In order to change this approach, the RTC needs clarification from the Chair as to whether a request during the hearing from an individual member constitutes a formal request by the Committee.

- If the Committee makes the request, the RTC could provide information, in consultation with the Independent Counsel, providing there are appropriate safeguards to protect the confidentiality and preserve the privileged nature of the information disclosed.

    - The RTC has previously provided privileged information to Congressional Committees with safeguards such as a promise of confidentiality or under a threat of subpoena which protects the agency from a claim that its privileges have been waived by disclosure to Congress. For example, the RTC has disclosed:

        - information regarding Southwest Savings litigation to Senate Banking under a promise of confidentiality;

        - information regarding Homefed to House Banking under a threat of subpoena; and

        - certain authority to sue memoranda to the House Subcommittee on Civil Service under a promise of confidentiality by the chairman of the Subcommittee, after the original request by Congresswoman Schroeder for such information was declined.

    - In the absence of such safeguards the RTC would have to consider all its options in order to avoid jeopardizing its statutory obligations.

BACKGROUND ON QUESTIONS COMING FROM COMMITTEE MEMBERS RELATING TO MADISON

1. **Why is the RTC refusing to provide information about Madison and Whitewater to this Committee?**

   At the present time the RTC is cooperating with the investigations by individual members (Rep. Leach/Sen. D'Amato) to the fullest extent possible under the law.

2. **Haven't you refused to provide specific information to Members of the Committee (Rep. Leach/Sen. D'Amato) and their staffs which they have advised you is extremely important to their carrying out of their duties?**

   Absent a request from the Committee, the RTC is limited with respect to three general areas:

   (a) Information regarding the personal and corporate financial records in it possession;

   (b) Information relating to criminal investigations; and

   (c) Information which is privileged;

   (d) Material relating to possible civil litigation.

3. **As a Committee Member (Minority Member) and as a participant in this hearing, I am formally requesting that you supply the material previously requested (by Rep. Leach/Sen. D'Amato).**

   In order to change this approach, the RTC needs clarification from the Chair as to whether a request during the hearing from an individual member constitutes a formal request by the Committee as part of this hearing on the Thrift Depositor Protection Oversight Board.

4. **As the Chairman of this Committee (Chairman Riegle/Chairman Gonzales), I am requesting that you provide the information requested to the majority and minority staffs of this Committee.**

   The RTC, in addition to its obligations to comply with law is deeply concerned about the providing of information which could have a negative impact on its investigation or litigation of any matter. Furthermore, the Justice Department has already requested that with respect to Madison, we make no information available about criminal referrals without its consent.

5. **I insist.**

Alternative A:
May I reiterate our concerns about possible negative affects on our investigation. However, since the Committee is making a formal request. I request on behalf of the RTC that appropriate safeguards be implemented after consultation with the staff of the Committee to protect the confidentiality of information and to preserve the privileged nature of any information disclosed. Furthermore, the RTC will consult with the independent counsel to advise the Committee of its position on the impact on the independent counsel's investigation before providing any information.

Alternative B:
Mr. Chairman, the RTC will respond as to its position on this request expeditiously (~~Executive privilege provision of information with safeguards~~) after consultation with independent counsel. TH

Background:

- The RTC has previously provided privileged information to Congressional Committees with safeguards such as a promise of confidentiality or under a threat of subpoena which protects the agency from a claim that its privileges have been waived by disclosure to Congress. For example, the RTC has disclosed:
  - information regarding Southwest Savings litigation to Senate Banking under a promise of confidentiality;
  - information regarding Homefed to House Banking under threat of subpoena; and
  - certain authority to sue memoranda to the House Subcommittee on Civil Service under a promise of confidentiality by the Chairman of the Subcommittee, after the original request by Congresswoman Schroeder for such information was declined.
- In the absence of such safeguards the RTC would have to consider all its options (TO [illegible] [illegible] [illegible]) in order to avoid jeopardizing its statutory obligations.

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================================================================================

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Spooled by:          John C. Binkley@Legal-ra@RTCDC
Title:               (input)
Job Number:          2855
Total Size:          10355
Copies:              001
Time Spooled:        Sat Jul 16 16:42:04 1994
Time Printed:        Sat Jul 16 16:42:55 1994
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Question:

Mr. Altman/Ryan, please describe to the Committee what if any legal advice you have received either from the RTC's General Counsel or other attorneys within the RTC on ______________.

Answer:

- [**Ryan**] The information that you have requested consists of confidential legal advice that I have received from attorneys in my capacity as Deputy CEO and consequently is privileged under the attorney-client privilege. Therefore, I respectfully decline to discuss such matters.

- [**Ryan-Alternative**] Because the information is privileged under the attorney-client privilege and I have not had the opportunity to discuss the question of waiving the privilege with my General Counsel, I would respectfully request the Committee allow me the opportunity to respond after we have reviewed this matter.

- [**Altman**] As you know I have recused myself from all matters related to Madison Guaranty. The issue you raise deals with advice pertaining to Madison prior my recusal and is protected by the attorney-client privilege. I have been advised that because of my recusal I am not the appropriate person to make a determination on behalf of the RTC as to whether the agency should waive its privileges associated with this issue. Instead, I have been informed that John Ryan, the Deputy Chief Executive Officer, is the appropriate party to make that determination.

Question to Ms. Kulka:

Ms. Kulka have you given legal advice either to Mr. Altman or Mr. Ryan on [description of the issue] and if so please tell the Committee the nature of that advice.

Answer:

- Any legal advice I may have given the RTC Chief Executive Officer/ Deputy Chief Executive Officer on that issue was provided to them in confidence and is protected under the attorney-client privilege.
- The information that you requested is privileged under the attorney-client privilege. This is not my privilege to waive, inasmuch as I am only the attorney for the RTC. It belongs to the agency, and the RTC alone can waive it.

Question to Ms. Kulka:

I understand that you are asserting the attorney-client privilege but that privilege is not yours, but that of your client. If Mr. Altman or Mr.Ryan waives that privilege on behalf of your client, would you answer my question?

Answer:

- As you know Mr. Altman has recused himself from all matters that relate to Madison Guaranty. Because of this recusal I do not believe that he is the appropriate official to make the determination as to whether the agency wants to waive its privileges in this matter. Instead John Ryan, as Deputy Chief Executive Officer would be the appropriate official.
- If John Ryan, as Deputy Chief Executive Officer makes a determination that it is in the RTC's interest to waive the privilege in this instance then I would be able to respond to your question.

Question to Mr. Ryan:

As Deputy Chief Executive Officer you are the client for the purposes of the attorney-client privilege and it is your privilege to waive. Will you waive that privilege and direct your General Counsel to answer the question and describe the advice that she gave?

Answer:

- I have not had the opportunity to evaluate what impact the waiver of the privilege would have on the RTC. Consequently, I will need to discuss this matter with my General Counsel and after we have reviewed the issue, I will be able to respond to you.

- I view it as very important that the advice I receive from my General Counsel and the other attorneys who work for the RTC remain confidential. To disclose that information would have a profoundly chilling effect upon those individuals and could detrimentally effect the quality of their advice in the future. It is only human nature that individuals will be less candid if they believe the substance of their advice will end up on the front page of the Washington Post or the New York Times.

- It is very important that the RTC careful evaluate the waiver of any privilege, whether it is the attorney-client privilege, deliberative process privilege or other privilege. Depending on the substance of the information at issue, it could disclose positions the RTC anticipates to take in future litigation with the devastating results on the RTC's mission.

Question:

You have indicated that one of the reasons The RTC cannot supply the requested information is that the disclosure may interfere with Mr. Fiske's investigation. If Mr. Fiske has no objection to certain information being disclosed will you make it available to the Committee?

Answer:

- The Committee should realize that Mr. Fiske's interest in the records is only one of several concerns that the RTC has regarding the disclosure of the information that Mr. Leach requested. In addition, to Mr. Fisk's interests, there are also the interests of the former customers of Madison Guaranty to be considered. Those privacy and trade secret interests cannot be waived by Mr. Fiske. Moreover, the RTC has its own interest in information which may be privileged. Therefore, Mr. Fiske's determination that he no longer cares whether the information is supplied to this committee, only removes one factor which we have to consider.

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(202) 225-4247

** FACSIMILE **

cc: John
Tom
Robin

DATE: February 24, 1994

TO: Mr. Roger C. Altman

FROM: Rep. James A. Leach

Number of Pages to follow: 4

B NYE
J HANSON
M LEVY
E KULKA
J STEINER
J RYAN

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(202) 225-4247

February 24, 1994

Honorable Roger C. Altman
Interim Chief Executive Officer
Resolution Trust Corporation
801 17th Street, NW
Washington, DC 20434

Dear Mr. Altman:

I am writing in regard to information and documents requested by Chairman Gonzalez concerning the Resolution Trust Corporation's professional liability recovery efforts. See attached letter. As Ranking Member of the Banking Committee, I am requesting that this information be provided to me and the committee by February 28, 1994. Please have your staff contact Joe Seidel at 226-3241 with any questions concerning compliance with the above request.

Sincerely,

James A. Leach
Ranking Member

JAL:gp

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(202) 225-4247

May 12, 1993

Honorable Roger C. Altman
Deputy Secretary of the Treasury and
 Chief Executive Officer
The Resolution Trust Corporation
1777 F Street, N.W.
Washington, D.C. 20006

Dear Deputy Secretary Altman:

The Committee on Banking, Finance and Urban Affairs is starting a review of the Resolution Trust Corporation's (RTC's) program to settle professional liability claims associated with failed savings and loans. I respectfully ask for your assistance with this inquiry.

In order to assist the Committee, please provide the following information:

1. The policies and procedures used to identify, investigate, negotiate and settle professional liability actions against persons associated with failed thrifts.

2. Any management reports, progress reports, Inspector General reports, or other internal evaluations of the Professional Liability Section.

3. A year by year break-down of staffing for the Professional Liability Section including the number of lawyers, support staff, and costs incurred by the section.

4. For each savings and loan taken over by RTC, the Committee would like information on the actions taken by the RTC regarding professional liability. For each savings and loan, please provide the following:
    a. the name of the failed savings and loan and the cost of the failure to the insurance fund;
    b. If a professional liability investigation is closed and no action was taken, please list the name(s) of the targeted professional(s) if any.
    c. If a case is still open, please indicate its status;

d. For those cases that were settled prior to trial, please list the settlement/judgement date, the amount agreed to and collected under each settlement/judgement, and the type of professional involved in the settlement (e.g., law firm, accounting firm, director, etc.);

e. For those cases that went to judgement through trial, what was the outcome of the trail, what was the dollar amount of settlement granted and collected, if any, and what was the total cost incurred by RTC?

5. For those settlements that include indemnification(s) agreements, please provide the terms of the indemnification agreement, the name of the thrifts involved, and the amount each thrift failure cost the insurance fund.

6. How many settlements/judgments occurred before versus after filing a lawsuit?

7. The total costs associated with professional liability settlements for each year since the inception of the RTC? How much of that cost is associated with "in house" versus outside contractors?

8. How many of the settlements were global settlements? How many thrifts were involved in each global settlement? Under global settlements, what is the total dollar amount agreed to and collected?

9. A list of all outside contractors (i.e, that is legal counsel, accountants, etc.) that have been retained to work on professional liability claims, the amount disbursed to each contractor, and when applicable, a copy of the Byrd Amendment statements (31 U.S.C. § 1352) concerning outside lobbying activities.

10. How many criminal referrals has the RTC made related to professional liability investigations? How many referrals led to prosecution and conviction and what is the total dollar amount of fines/judgements assessed and collected related to criminal referrals?

In addition, the Committee will focus on several specific professional liability cases. Accordingly, please provide all documents, including, but not limited to, correspondence, workpapers, memorandum, electronically stored materials, notes, press releases, etc., in the possession of the RTC related to professional liability case against the following:

a. Ernst and Young;
b. Jones, Day, Reavis and Pogue;
c. Kaye, Scholer, Fierman, Hays and Handler; and
d. Drexel Lambert, Frederick Joseph, Michael Milken, et al.

To discuss compliance with this request, please have staff contact Mr. Dennis Kane. He can be reached during bus hours at 225-4247.

Thank you for your time and cooperation. I look forwar working with you to ensure that the professional liabi settlements reached by your agency are in the best interest of taxpayer. The Committee looks forward to your timely reply.

With best wishes.

Sincerely,

Henry Gonzalez

Henry B. Gonzalez
Chairman

HBG:dk

RESOLUTION TRUST CORPORATION
OFFICE OF GOVERNMENTAL RELATIONS
CORRESPONDENCE REFERRAL

Document: 12746 **Document Date:** 94/02/03 **Due Date:** 94/02/18
Input Date: 94/02/04

NAME: Leach, Honorable James A.
Ranking Minority Member
Committee on Banking, Finance and
ADDRESS: Urban Affairs, House of Reps.
Washington DC 20515

Copies To:
Standard Dist.
P. KNIGHT D. LINDSEY
C. MORGAN J. MARTIN
S. PRIMROSE K. KAUFMAN
C. CRAFTER

Synopsis: WHITEWATER DEVELOPMENT CORPORATION [DOCUMENTS] SENT TO JUSTICE, [MADISON] GUARANTY S&LA, MCCRORY, AR (RESOLVED). RTC REVIEW. [MCDOUGAL] OWNERSHIP INTEREST WITH [CLINTON]S. [CEO RECUSE].[IMPORTANT]

Action: Prepare for Mr. Altman's signature

OLA Contact: Carol O'Brien (202) 416-7314

INSTRUCTIONS

Author of the draft response and person(s) reviewing response should sign this routing sheet. Please forward draft response by DUE DATE with this completed form to OLA (Renee Kelly-Room 1062A-801 17th Street) with WordPerfect disk or b E-mail (Renee Kelly@ OLA@ RTCDC). Routing sheet may be faxed to (202)416-4413.

* This form is necessary for review purposes *

Assigned To: **Date:**
OLA-LEG Ellen B. Kulka - Legal 94/02/04

AUTHOR: ______________________ **PHONE:** ______________

REVIEWED BY:	DATE IN	DATE OUT	REVIEWED BY:	DATE IN	DATE OUT

12746

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
ONE HUNDRED THIRD CONGRESS
2129 RAYBURN HOUSE OFFICE BUILDING
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February 3, 1994

RECEIVED
FEB 4 1994
OFFICE OF GOVERNMENTAL RELATIONS
RTC

Mr. Roger C. Altman
Interim CEO
Resolution Trust Corporation
801 17th Street, NW
Washington, DC 20434

Dear Mr. Altman:

I am in receipt of your February 1, 1994 response to the letter initiated by Senate Republican leadership concerning Madison Savings and Loan and I am pleased to learn that the RTC "will vigorously pursue all appropriate remedies" with regard to Madison's failure. It seems self-apparent that in order for the RTC to pursue vigorously all remedies it must have all relevant information at its disposal. Accordingly, I urge the RTC to seek and review all Whitewater Development Corporation documents turned over by the White House to the Justice Department.

In its investigation of Madison, the Minority has uncovered links between Madison and Whitewater, some of which may have contributed to the thrift's failure. Not only did James and Susan McDougal hold significant ownership interest in both entities (approximately two thirds in Madison and one half in Whitewater), but the other joint owners of Whitewater (Bill and Hillary Clinton) appear to have benefited directly and indirectly from the application of Madison resources. [See the attached memo.]

If the White House chooses to use the Justice Department to shield Whitewater documents not only from the public and Congress, but from other government agencies, such as the RTC, which have legitimate public law enforcement responsibilities, it is hard to believe a responsible resolution of the issues involved can be made by regulatory authorities.

I have high regard for your personal integrity, but as you know, from the beginning, it has been an awkward situation to have a presidentially appointed and confirmed officer of the Treasury Department also head an independent federal agency, the Resolution Trust Corporation (RTC). When this prospect was first suggested at the beginning of the Clinton Administration, it did

not strike the Minority as overly unreasonable for a month or two given the fact that no RTC head had been selected.

However, it has been over a year since the Administration has been in office and it can only be described as structurally unseemly for a political appointee of an Executive branch department to make what are in effect, law enforcement decisions for an independent federal agency as they may touch upon the President.

Accordingly, I would urge that you request from the Department of Treasury's General Counsel and Ethics Office advice as to whether you, as interim CEO of the RTC, are obligated to recuse yourself from any decisions concerning the resolution of Madison Guaranty. Just as the special counsel law was designed to relieve the Attorney General from an ethical dilemma of being both chief law enforcement officer for the nation and chief legal advisor to the President in circumstances when the President or a high level Administration officer is the subject of investigation, so it would appear ethically questionable for a political appointee of the Department of Treasury to make decisions for an independent federal agency when the President may be implicated in enforcement and civil actions.

In this regard, it should be clear that the issue is not whether a presidentially appointed official can oversee an investigation involving the President. Rather the issue is that officials with this responsibility should be confirmed for the job with that particular accountability. As you will recall it was a political appointee confirmed by the Senate that issued a cease and desist order for engaging in conflicts of interest against the son of a former President.

As you know, despite your strong letter to the Chairman of the House Banking Committee recommending against extension, Congress last year extended the statute of limitations for civil lawsuits brought against S&L wrongdoers. As you pointed out in your most recent letter, this extension "has afforded the RTC an opportunity to investigate further any civil claims which may be asserted against individuals or entities associated with Madison Guaranty for fraud, intentional misconduct resulting in unjust enrichment, or intentional misconduct resulting in substantial loss to the institution." Given, however, the impending running of the statute of limitations for certain kinds of actions, time is clearly of the essence for the RTC to make judgments about civil accountability in the failure of Madison.

Finally, I would like to reiterate my request, pursuant to Rules X and XI of the House Rules for all documents related to Madison Guaranty Savings and Loan, Little Rock, Arkansas. As you know,

on December 9, 1993, I wrote the RTC requesting access to all documents related to Madison Guaranty and its subsidiaries.

House and Committee Rules, House practices, and judicial precedent support the proposition that the Ranking Minority Member is the functional counterpart to the Chairman for Committee action. This being the case, a request for documents made by the Ranking Minority Member has parallel standing with a request made by the Chairman of the Committee. The Ranking Minority Member clearly has a voice in the process and is entitled to information that will enable the Ranking Minority Member to carry out his constitutionally mandated oversight responsibilities.

Therefore, the courtesy of a definitive reply to this document request is requested by 12 noon, Monday, February 7, 1994. On this matter, it is urged that you also consult with the Ethics Office as to the relevance of the previously discussed recusal issue.

Again, let me stress that to the degree a conflict situation may exist in this matter in no way reflects on your personal integrity. It is simply an awkward circumstance in contrast to a personal embarrassment.

Sincerely,

JAMES A. LEACH
Ranking Member

JAL:gp

Enclosure

MEMORANDUM

TO: Congressman Leach

FROM: Banking Minority Staff

RE: Madison Guaranty ("Madison")

In reviewing documents related to Madison in the possession of Minority Banking, we have come across material which may indicate direct payment of a loan of Bill Clinton's by Madison through a subsidiary.

Since the Minority's investigation is concerned with the possible misuse of federally insured funds to assist Whitewater and/or the former Governor, we thought we should share the following information with you.

SUMMARY

Based on documentary evidence available to the Minority, it appears that Madison Marketing served, in at least one instance, as a conduit of funds from Madison Guaranty to Whitewater and Governor Clinton. If this is correct, it would appear that insured funds from the failed Madison Guaranty were diverted and directly benefitted the Governor and his investment in Whitewater, a claim Clinton had denied.

DOCUMENTATION

- In 1983, Bill Clinton obtained a loan from Security Bank of Paragould, Arkansas for approximately $20,800 (loan #975-585, Bill Clinton). The money from this loan was used to pay off the remaining balance of a loan at Madison Bank and Trust of Kingston, Arkansas that was provided for the purpose of constructing a modular home on lot #13 at Whitewater Estates. The loan at Madison Bank was provided in 1980 to Hillary Clinton in the amount of $30,000.

- On November 8, 1985, James McDougal sent a letter accompanied by a check to Charles Campbell, Vice President of Security Bank of Paragould, for $7,322.42. The letter from McDougal states that the check is principal and interest payment on "Note #957-585, Bill Clinton." [Note: It appears that the loan number is a typographical error with the superimposing of numbers 5 and 7 in the first three digits.]

- The check McDougal enclosed with his letter to Mr. Campbell is a Whitewater Development Corporation check dated November 7, 1985. The loan number referenced on the memo portion of the check is "Note #975-585."

- According to the check ledgers for the Whitewater Development Corporation (WDC), the corporation's checking account had the following balances: $189.50 on 10-10-85; and, $12.49 on 10-31-85. However, in order to cover the payment of $7,322.42 on the Clinton loan, a deposit is recorded on November 8, 1985 in the amount of $7,500.00. The deposit is listed as coming from "Madison Marketing."

- A 1986 Federal Home Loan Bank Board exam gives the impression that Madison Marketing was largely a sham corporation used to divert federally insured resources to insiders. The exam notes that "Until 1986, Susan McDougal owned Madison Marketing." The report also states the following:

> "Madison Marketing is paid for doing all the general advertising for Madison Guaranty and most of the advertising for Madison Financial's land development projects. All of Madison Marketing's business is derived from Madison Guaranty or its subsidiaries. Since 1983 these payments total $1,532,000."
>
> "Given the evidence of Madison Marketing's invoices, it is questionable how much of these advertising services are actually performed by the firm. The actual work ... appears to be performed by others. It would appear that Madison Guaranty could have an employee perform similar work for much less money."
>
> "Mr. Latham [an officer of Madison] stated that Madison Marketing made no payments to any stockholders. This statement is false. As part of a test for such payments, the examiners discovered two remittances from Madison Marketing to Susan McDougal [a large stockholder of Madison] which total $50,000. This was a test, and there may be additional payments."

CONCLUSION

Given the above circumstances, it would appear that federally insured deposits (i.e., funds from Madison Guaranty through Madison Marketing), which, with the later failure of Madison became, in effect, taxpayer obligations, were transferred for the direct personal benefit of the former Governor.

The above payment also raises the question of whether Whitewater

was treated as an affiliate or related interest of Madison Guaranty and therefore subject to conflict of interest statutes. From a legal perspective, it could be argued that the McDougals' controlling interest in Madison Guaranty and their substantial ownership interest in Whitewater could qualify Whitewater as an "affiliate" of Madison Guaranty. Even if Whitewater is not considered a subsidiary, related interest, or affiliate of Madison Guaranty, such an extension of funds to a presumably "unaffiliated" entity would be very unusual and suspect.

It has been publicly reported, with respect to this loan repayment, that both Whitewater and the Clintons took a tax deduction related to interest paid on the same loan -- which the Clintons later recognized as improper double deduction after an article ran in the New York Times. What remains unclear is the larger question of whether the funds provided by Madison to reduce the Clinton's liability were proper or properly reported as income for income tax purposes.

As you know, we have received broad hints from within the RTC that the agency has had under review money transfers from Madison to Whitewater. We will not know whether this type of activity was more pervasive and part of a larger pattern unless, and until, the agency provides us the documents we have requested. If Madison provided any direct or indirect assistance to Whitewater, presumably half the value of such would redound to the advantage of each of the half owners. In any regard, the above money transfer underscores that then Governor Clinton had personal liabilities reduced by a payment from Madison. Such payment presumably carries ethical as well as tax implications and is part and parcel of the $47 to $60 million estimated taxpayer loss at Madison.

Attachments

Security Bank
P.O. BOX 670 PARAGOULD, ARKANSAS 72450
501-239-8571

September 30, 1983

Governor Bill Clinton
1800 Center
Little Rock, AR 72205

Dear Governor Clinton:

Enclosed is a copy of our check #12677 in the amount of $20,800.00 representing the proceeds of your note. The original was mailed to: Madison Bank & Trust, Kingston, Arkansas.

Sincerely,

Charles D. Campbell

Charles D. Campbell
Vice President

CDC/lam

Security Bank
P. O. BOX 670
PARAGOULD, ARKANSAS 72450

№ 12677

9-30 19 83

81-88/841

PAY

$ 20,800.00

TO THE ORDER OF Madison Bank & Trust 208

NOT NEGOTIABLE

FOR loan proceeds for Gov. Bill Clinton

⑆08141008 29⑆ 2725-851⑈

JIM McDOUGAL

P. O. Box 1583

Little Rock, Arkansas 72203

[illegible] copy

November 8, 1985

Mr. Charles D. Campbell
Vice President
Security Bank
P. O. Box 670
Paragould, Arkansas 72450

Re: Note #957-585, Bill Clinton

Dear Mr. Campbell:

Enclosed is a White Water Development Corporation check for $7,322.42, representing principal payment of $5,000 and interest payment of $2,322.42, on the above note.

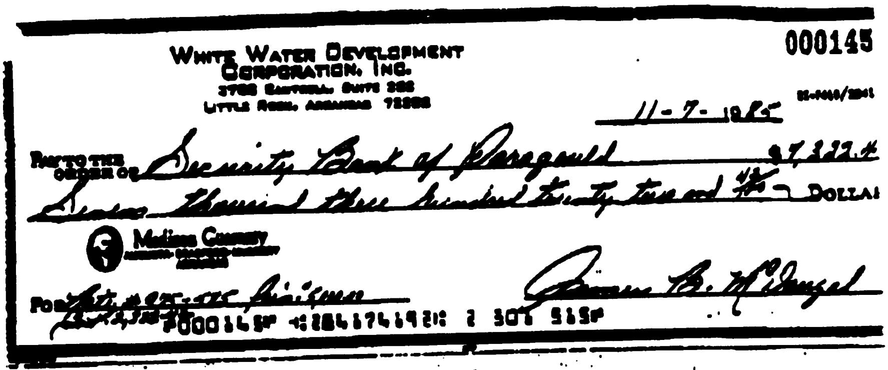
Thank you for your attention to this matter.

Sincerely,

Jim McDougal

Jim McDougal

JM/ss
Enc



000145

WHITE WATER DEVELOPMENT
CORPORATION, INC.
3700 CANTRELL, SUITE 300
LITTLE ROCK, ARKANSAS 72202

11-7-1985

PAY TO THE ORDER OF Security Bank of Paragould $7,322.4

Seven thousand three hundred twenty two and 46/100 DOLLA

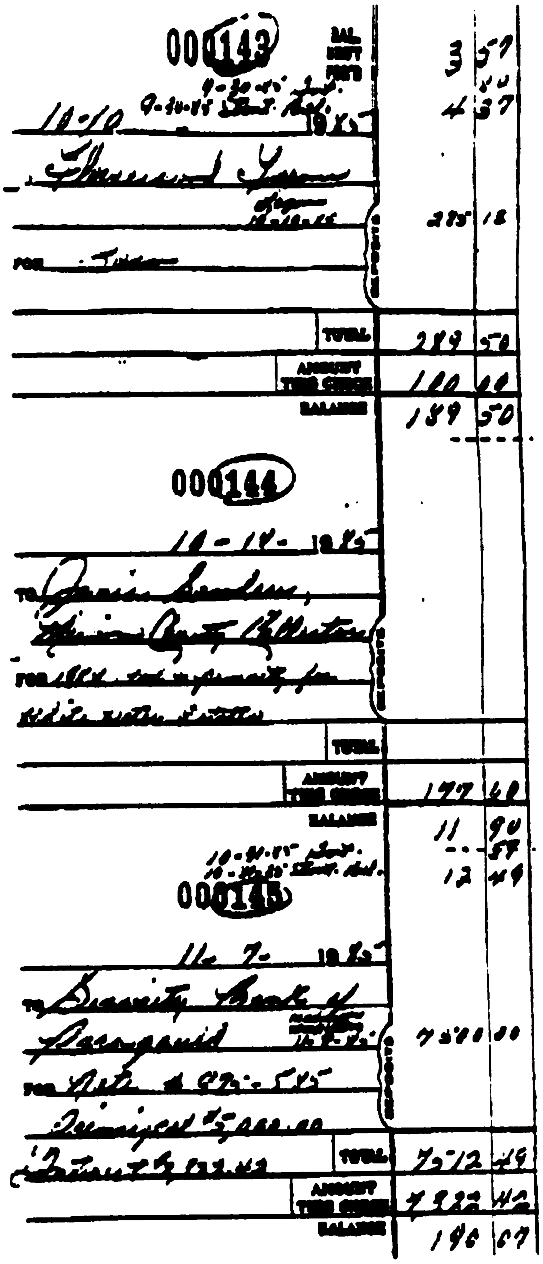
Madison Guaranty

FOR [illegible]

James B. McDougal

⑈000145⑈ [illegible] 2 303 515⑈

Account notation on check is [illegible] different from notation on McDougal letter -



000143

BAL. BRO'T FOR'D 3 57

9-30-85 Int. 80

9-30-85 Serv. Chg. 4 37

10-10 1985

TO [illegible]

DEPOSITS 10-10-85 285 13

FOR [illegible]

TOTAL 289 50

AMOUNT THIS CHECK 100 00

BALANCE 189 50

000144

11-14- 1985

TO [illegible]

[illegible] County Collector

FOR 1984 tax on property for white water estates

TOTAL

AMOUNT THIS CHECK 177 60

BALANCE 11 90

10-31-85 Int. 57

10-31-85 Serv. Chg. 12 49

000145

11-7- 1985

TO Security Bank of Paragould

DEPOSITS 11-7-85 7500 00

FOR Note # 02-5?55

Principal $5000.00

Interest $2322.42

TOTAL 7512 49

AMOUNT THIS CHECK 7322 42

BALANCE 190 07

This is the

white
water check
ledger !

Drawn on Madison

X

FILED

MAR 14 1991

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
SECOND DIVISION

MADISON GUARANTY SAVINGS AND LOAN ASSOCIATION, a State Chartered Savings and Loan; MADISON FINANCIAL CORPORATION, a Wholly Owned Subsidiary of Madison Guaranty Savings and Loan Association,

Plaintiffs,

vs. No. [illegible]

FROST & COMPANY, an Arkansas Professional Association, and its directors James Alford, Michael Robinson, Gary Gray, Gaines Norton, Tim Gibson, Steve Humphries, Alan Duncan, Frank Butts, Marjorie Itzkowitz, John Does A, B, C, D

Defendants.

FIRST AMENDED COMPLAINT

COMES NOW, Plaintiffs, and for cause of action states follows:

I

PARTIES

1. Plaintiff Madison Guaranty Savings and Loan Associat (hereinafter, Madison Guaranty) is a state savings & l association duly chartered under the laws of the State Arkansas. Plaintiff Madison Financial Corporation (hereinaft Madison Financial) is a state chartered corporation and wh owned subsidiary of Madison Guaranty.

2. Defendant Frost & Company is a professional associat or partnership of public [redacted] with its principal place business in Little Rock, Arkansas, comprised of the follow individual partners who are set forth as Defendants in paragr 3.

3. Defendants James Alford, Michael Robinson, Gary Gr Gaines Norton, Tim Gibson, Steve Humphries, Alan Duncan, Fr Butts, Marjorie Itzkowitz, John Does A, B, C, D are directors

7. John Latham at all relevant times was the President Chief Executive Officer of Madison Guaranty and a member of Board of Directors; and a member of the Board of Directors and Secretary of MFC.

8. Susan McDougal was at all relevant times wife of James McDougal, member of the Board of Directors of Madison Guarant President of Madison Real Estate, a division of MFC, and Presid of Madison Marketing, a service provider to Madison Guaranty MFC.

9. Madison Real Estate was a real estate brokerage operat owned and operated by Madison Financial with its principal bro Susan McDougal.

10. Madison Marketing was an advertising agency throu which Madison Financial and Madison Guaranty purchased all of advertising for itself and MFC's real estate developments.

11. Jim, David and Bill Henley ("Henley Brothers") were re estate agents and/or developers for Madison Real Estate, who so property and received substantial commissions and/or developm fees from Madison Financial.

12. Frost & Company purported to serve as independe auditor of Madison Guaranty and its consolidated subsidia Madison Financial for the years 1984 and 1985.

13. James B. Alford at all relevant times was the audit a accounting partner of Frost & Company in charge of the Madis Guaranty audit.

14. Federal Home Loan Bank Board ("FHLBB") is the prima federal regulator of Madison Guaranty. FHLBB has oversight of t Federal Home Loan Bank of Dallas which has direct supervis responsibility for Madison Guaranty.

IV

LEGAL AND AUDITING FRAMEWORK

15. This action arises from Frost & Company's breach of duty and agreement to provide professional services in that defendant Frost & Company violated Generally Accepted Auditi Standards ("GAAS") in connection with its audits of, and opinio

FEDERAL HOME LOAN BANK BOARD
OFFICE OF EXAMINATIONS AND SUPERVISION

Name and Address of Institution MADISON GUARANTY SAVINGS AND LOAN ASSOCIATION

1501 MAIN STREET, LITTLE ROCK, ARKANSAS 72203

District Number NINE Docket Number 7401

Examination as of (date) MARCH 4, 1986

Service Corporations and Other Affiliates Examined:

MADISON FINANCIAL CORPORATION

REPORT OF EXAMINATION

Prohibition of Disclosure or Release

This document is the property of the Federal Home Loan Bank Board and is furnished to the institution for its confidential use. Under no circumstances shall the institution, or any of its directors, officers, or employees, disclose or make this document or any portion of it public in any manner.

If a subpoena or other legal process is received calling for production of this document, the District Director - Examinations should be notified immediately. The attorney at whose instance the process was issued, and, if necessary, the court which issued the process, should be advised of the above prohibition, and referred to Part 505 of the General Regulations of the Federal Home Loan Bank Board.

Directors, in keeping with their responsibilities, should review this report thoroughly. This report should not be considered an audit report.

FHLBB Form 150

Docket No. [illegible]

[redacted] of the commissions paid by Madison Financial to Madison Real Estate, which significantly derives all of its business from Madison Financial.

[illegible]

Many of the sales, which generated these commissions, were to McDougal-Henley Group members who are acting as straw buyers. Madison Guaranty essentially retained the risks of ownership in these transactions because it fully financed these sales including the cash sales commissions. Thus, Madison Guaranty's position deteriorated because it retained the same ownership risks as before, but paid [illegible] fees to these individuals. In addition, fees paid through Madison Real Estate were used as down payments in some of the straw land purchases in an apparent attempt to disguise 100% funding of the purchase by Madison Guaranty and its subsidiaries.

Messrs. McDougal and Latham cited an April [illegible], 1985 letter from a Federal Home Loan Bank of Dallas Supervisory Agent as permission to pay real estate sales commissions to Madison Real Estate. However, this letter in part, asks that the Board of Directors review Insurance Regulation 571.7 which is cited above in this comment.

2. Madison Marketing

Madison Marketing is paid for doing all the general advertising for Madison Guaranty and most of the advertising for Madison Financial's land development projects. All of Madison Marketing's business is derived from Madison Guaranty or its subsidiaries. Since 1983 these payments total $1,537,000. Until February 1986, Susan McDougal owned Madison Marketing. During a portion of this time, it was a corporation which was incorporated by Lisa Aunspaugh, reportedly a close friend of Susan McDougal.

Mr. Latham stated that after February 1986, Madison Marketing became an entity "d/b/a (doing business as)" for Madison Financial and ceased to be a corporation. However, it is not registered as a "d/b/a" in the County records. Also, its checking account has never been recorded on the books of Madison Financial.

Given the evidence of Madison Marketing's invoices, it is questionable how much of these advertising services are actually performed by the firm. The actual work of advertising, such as the design and production of commercials and providing air time or newspaper space, appears to be performed by others. Madison Marketing apparently just pays the bills of other providers and adds a 15% fee of its own. Examiners estimated this fee to be approximately $200,000 since 1983. It would appear that Madison Guaranty could have an employee perform similar work for much less money.

X

Mr. Latham stated that Madison Marketing made no payments to any stockholders. This statement is false. As a part of a test for such payments, the examiners discovered two remittances from Madison Marketing to Susan McDougal which total $30,000. This was a test, and there may be additional payments.

3. Designer's Construction

[illegible] on this

Designer's Construction performs construction work on some of the land development projects and on some of the property securing Madison Guaranty loans. In 1985 and to date in 1986, $267,000 was paid for work performed for Madison Guaranty and its subsidiaries. The amount of loan proceeds paid to Designer's Construction on work for third party borrowers is unknown. Designer's Construction appears to be a

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

January 14, 1994

MEMORANDUM

To: Vice Presidents
Assistant Vice Presidents

From: Jack Ryan
Deputy CEO

Re: Madison Guaranty Savings and Loan Association

The RTC has received numerous requests for information on Madison Guaranty Savings and Loan Association and related matters. Interim CEO Roger Altman is committed to responding to these requests as promptly and thoroughly as possible.

In order to assure that the RTC's response to requests on these matters is thorough, accurate, and timely, I have established a working group to coordinate the collection and distribution of all information and material responsive to the requests. The working group is comprised of James Dudine, William Collishaw, and Peter Knight.

I am sure that I can count on the full cooperation of you and your staff with the working group. Please see that this memorandum is distributed to the appropriate staff.

801 17th Street, N.W. Washington, D.C. 20434

10.00 1/5

PK JOHN BOWMAN, DL DORN BENNETT

GAMBLE, DUNDINE, STEVE PRENMORE

TREATING AS FOIA — TOLD RYAN.

SEAN HANSON — CREATIVE WAYS

1. CREATIVE WAYS. ⟷

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

December 22, 1993

MEMORANDUM

TO: Dennis Geer
Bill Collishaw
James Barker
Jack Binkley
Casey Carter

FROM: Peter Knight, Acting Director
Office of Governmental Relations

RE: Access To All Documents Related to Madison [Guaranty Savings and Loan]

For your information, attached is the response to Congressman Leach's letter requesting access to all documents related to Madison [Guaranty Savings and Loan].

cc: Ben Nye

Office of Thrift Supervision
Department of the Treasury

1700 G Street, N.W., Washington, D.C. 20552 • (202) 906-6590

December 22, 1993

The Honorable James A. Leach
Ranking Minority Member
Committee on Banking, Finance,
  and Urban Affairs
United States House of Representatives
Washington, D.C. 20515

Dear Congressman Leach:

This is in response to your December 9, 1993, letter in which you requested "access to all documents related to Madison [Guaranty Savings and Loan] and its subsidiaries," as well as the names and titles of OTS employees involved with the supervision and examination of Madison.

With regard to your request for documents, we believe there are two categories of documents that must be analyzed separately:

- Material available to any member of the public under the Freedom of Information Act. Some of this material may contain either confidential financial information from individuals or privileged intra-agency information, and would be subject to redaction.
- Supervisory and examination material concerning an OTS-supervised thrift institution.

We will, of course, provide you with any information available to the public under the Freedom of Information Act. Some of this material is available in its entirety and would include any final agency orders regarding Madison and any securities filings that the institution may have made. We would also make copies of the institution's Thrift Financial Reports available.

Other materials, such as support for certain applications, contain confidential financial information from individuals. Although most of the contents of these documents may be released, OTS policy is to protect the privacy of individuals who have submitted confidential information to us. This agency is able to obtain such information on the understanding that we will preserve its confidentiality; disclosure would impede our ability to obtain it in the future. Therefore, any such confidential material would have to be redacted from these documents before they could be made available.

Additionally, there may be some documents that contain privileged intra-agency communications. Although this does not necessarily require withholding entire documents, we need to avoid waiving such privileges as may reside in these documents.

As to supervisory and examination materials, we believe it essential to protect the confidentiality of sensitive information concerning insured institutions. Existing OTS policy is not to release such materials, except under very limited circumstances. There are two reasons for this. First, the confidential nature of the examination process facilitates the free flow of information between savings institutions and examiners. Second, examiners are encouraged to express freely their conclusions to their supervisors about examined institutions, and the confidential nature of the reports permits them to do so. As the United States Court of Appeals for the District of Columbia Circuit recently said,

> Bank management must be open and forthcoming in response to the inquiries of bank examiners, and the examiners must in turn be frank in expressing their concerns about the bank. These conditions simply could not be met as well if communications between the bank and its regulators were not privileged.
>
> *In re Subpoena Served Upon the Comptroller of the Currency*, 967 F.2d 630, 634 (D.C. Cir. 1992) (citations omitted).

You also requested the names and titles of all OTS employees involved with the examination and supervision of Madison as well as those who were assigned to work with the RTC when the institution was closed in 1989. We will provide the names and titles of these employees. However, because of the need to preserve the confidentiality of the examination process, before you conduct any interviews of them, we will need to determine the appropriate scope of these interviews.

We recognize, as did your December 17 letter, that there are issues regarding whether the Freedom of Information Act exemptions apply to your request. In order to reduce the number of documents over which we may disagree and in order to make any redactions as expeditiously as possible, I suggest our staffs discuss the general categories of documents in OTS' possession. If possible, it might be mutually beneficial to determine which, if any, documents we hold that are not germane to your inquiry. We may then organize our review of the documents in a manner that best addresses your priorities.

I hope this is responsive to your request.

Sincerely,

Jonathan L. Fiechter

Jonathan L. Fiechter
Acting Director

- Saturday, January 1, 1994
  CNN's "Evans & Novak": Rep. Jim Leach
  Transcript ID: 1030016 (395 lines)

CNN'S "EVANS & NOVAK"

GUEST: REPRESENTATIVE JIM LEACH (R-IA)

HOSTS: ROWLAND EVANS AND ROBERT NOVAK

12:30 P.M. (EST)
SATURDAY, JANUARY 1, 1994

The following is a transcript of CNN's "Evans & Novak." This material is copyrighted by Cable News Network. The program material is the property of Cable News Network and it is therefore MANDATORY that any excerpts and quotes taken from this program or any reference made to this program's content include attribution to CNN and the above program title.

MR. EVANS: First, Happy New Year, everybody. I'm Rowland Evans. Robert Novak and I will look at what has become known as the Whitewater deal by questioning a Republican congressman who wants to investigate the land deal involving the president and Mrs. Clinton.

MR. NOVAK: He is Republican Representative James Leach of Iowa, ranking minority member of the House Banking Committee.

In 1979, the Clintons joined with a political supporter named James McDougal to form the Whitewater Development Corporation to buy and develop land in the Ozarks. Whitewater's bank accounts, which were often overdrawn, were located at a Little Rock thrift institution owned by McDougal, the Madison Guaranty Savings & Loan. The Justice Department is now investigating whether McDougal improperly diverted funds from Madison to prop up Whitewater and to support the Clinton campaign for governor in 1984. Madison has collapsed at a cost to taxpayers estimated at more than $50 million.

It was disclosed last week that after Clinton aide and friend Vincent Foster committed suicide July 20th, presidential aides removed files from Foster's office relating to Whitewater. After first resisting, the president turned over the files to the Justice Department, but not to Congress or the news media.

PRESIDENT CLINTON: (From videotape.) We have not obstructed any -- we have not tried to resist anything.

MR. NOVAK: Republicans have called for congressional investigations and a special prosecutor.

ATTORNEY GENERAL JANET RENO: (From videotape.) If I appoint a special prosecutor, that has almost more political implications than letting career prosecutors who have worked for several administrations and who have real experience in federal prosecution conduct it in the right way.

MR. NOVAK: That rejection followed refusals by Democratic chairmen of the House and Senate banking committees to conduct an investigation.

The office of the Housing Banking Committee chairman, Representative Henry Gonzalez of Texas, said the congressman did not respond to our request to appear on this program. Fifteen other Democratic members of both the House and Senate banking committees were called and either declined our invitation or were unavailable to participate.

Congressman Leach, just what are you after in this investigation?

REP. LEACH: Well, basically just after the facts and the truth. And then, quite frankly, how the facts and the truth reflect on American political leadership at this time is not unimportant. What's at stake here is really an assessment of character way and above the legal process, but there are some very severe legal issues here as well.

MR. NOVAK: Congressman, the American people, I think, would like to know the answer to one question. What is the worst that could be said of the president that he had done in this operation and in this deal, this transaction?

REP. LEACH: Well, what we have is a savings and loan operated kind of as a private piggy bank for insiders in the Arkansas political establishment. What we also have is a real estate development corporation that was half-owned by the Clintons with the president of this particular savings and loan. And in both cases, you had losses to the United States taxpayer. The savings and loan was allowed not only to continue to accept deposits after being defined as insolvent for a five-year period and to grow exponentially, but it also appeared to make certain transfers to the development corporation to bolster its resources and quite possibly to the gubernatorial campaign of then-Governor Clinton.

All of this stretches ethics and perhaps the law. In terms of the worst, I think that the president faces some civil remedies that could be quite serious. He could potentially face criminal charges. My own personal belief is that it would be an error to go that far. But I think the facts ought to be aired. Civil penalties ought to be applied. The American public ought to look seriously at the character of leadership today.

MR. EVANS: Congressman, let me repeat that we're very sorry we don't have a Democrat on this show. I want to quote to you from the first lady, Hillary Rodham Clinton, in a statement she made within the last few days on this matter of Whitewater. "I am bewildered," said Mrs. Clinton, "that a losing investment is still a topic of inquiry. I just think what we've said is adequate." Now, they didn't make a nickel on the Whitewater deal, according to Mrs. Clinton. What motive have you for pursuing this any further, sir? There was no money that's gone into the bank for the president and his wife.

REP. LEACH: Well, that's the claim. But I don't think one can make it any more than that it's a claim. There's nothing on the written record that vindicates it. There's no records of Whitewater that are of any validity that anyone has seen. Beyond that, even if it was an investment for which a loss was taken, and there's no evidence of that that I have seen, one also has to point out that Mr. McDougal, as the head of this thrift, put in his and the thrift's money to diminish a liability that would otherwise fall to the Clintons.

In other words, many people make investments that don't work out. And if they have to fork up, they fork up their share. But on the record, it's quite clear that Mr. McDougal, the head of the thrift, and possibly the thrift itself, because McDougal in essence was the thrift, put in a great deal more resources than the Clintons did, but they were half-owners. And so that was a favor being done for the governor and his wife at the time.

Now, whether or not that's illegal is not clear. But I'll tell you, as one that's been in business myself, everybody in business makes some good decisions and some bad decisions. And when you make a bad decision, you fork up. You don't look for someone else to fork up. And in this case, one of the things that's not well understood is that when you say a savings and loan forked up, it isn't out of someone's pocket in the private sector. Because it's insolvent, it ends up it comes directly from the taxpayer.

So the United States taxpayer is picking up the tab for the liabilities of the former governor of Arkansas. Likewise, by the way, there was a loan that went in a very egregious way through the Small Business Association to this particular development real estate company that hasn't been repaid, and the taxpayer is on the line for it as well.

MR. NOVAK: That's the Small Business Administration.

MR. EVANS: Small Business Administration. Congressman, let me follow that up, though, my line on Hillary Clinton. Why should voters be involved today or care about activities of the president of the United States before he was elected president? This was a -- this is a case that the president and his supporters have made in refuting and repudiating all those charges by the Arkansas state troopers about alleged sexual activities. And the American people don't seem to be very worked up about those allegations. This all happened, as I understand it, before Bill Clinton took the oath of office. Why not let it rest?

REP. LEACH: Well, you've got a fair query there. It just happens that when you talk about leadership, you talk about character, you talk about background. And in this case, I've never been one to talk about the social life of the president. That's not my interest. But the financial life, when it touches the American taxpayer, is of some interest.

Everybody in America seems to understand that the greatest public policy mistake of this century in domestic politics relates to the S&L debacle, which, after all, is costing the taxpayer about a quarter of a trillion dollars. What that in partial measure is all about is weakness of legislators and politicians to rein in thrifts that were acting imprudently and, frankly, in many cases illegally.

It looks as if a pattern existed in a small Arkansas thrift exactly like that pattern that existed with a man named Charles Keating in California, a man named David Paul in Florida, a man named Don Dixon in Texas; that is, egregiously-run thrifts cost the taxpayer phenomenal sums of money and rewarded politicians along the way. There's every indication right now that one of those that was rewarded was the then-governor of Arkansas. That is of terrific interest to the American public.

MR. NOVAK: Congressman Leach, I want to ask you about the Vince Foster documents, the file, and see what you know about it. Is it true that the Justice Department did not request that file until such time as newspaper accounts said that the file had been removed from Mr. Foster's desk after his suicide? Is that your understanding?

REP. LEACH: That is my understanding, but that's from the press. I can't individually verify that.

MR. NOVAK: Have you asked for those files, for that file?

REP. LEACH: Yes, we have.

MR. NOVAK: And what was the response?

REP. LEACH: The response was that we would not be provided it.

MR. NOVAK: Now, I understand that the spokesman for the president, Dee Dee Myers, has said these are private documents affecting the president as a private citizen and the president is under no obligation to make public those documents. What do you think of that argument?

REP. LEACH: Well, the president campaigned as a new politician, a man of the people. He campaigned in a bus across this country. But the great question is whether he's put himself above the people in personal ethics and above the law when it comes to personal finance. And right now, a very unusual circumstance is developing. Unlisted

files have been apparently turned over to the Department of Justice. The Department of Justice has an obligation not to make them public. And so the White House is using the Department of Justice as a shield to public scrutiny. It's an unprecedented circumstance and one for which I think the American people ought to raise their eyebrows.

MR. NOVAK: Now, let me ask you --

REP. LEACH: If there's nothing wrong, there's nothing to hide.

MR. NOVAK: Let me ask you just one question that occurs to me, as somebody who has never been in government. Is there any impropriety in the president's lawyer being in the White House as a paid government official dealing with private investments by the president and the first lady in his desk at the White House? Is there some impropriety there?

REP. LEACH: Well, I don't think there's any doubt that if the individual spent his time on that issue at all, there is a bit of impropriety. How great an impropriety is unknown. We're dealing with a very tragic suicide here. No one can know why it occurred. We apparently had a very intelligent and very troubled man and one of some character. On the other hand, there are lots of indications that on his mind at this time was this particular problem and some related problems. How central that is to the suicide itself, nobody will know.

MR. EVANS: Congressman, a couple of questions that you can answer, I think, very briefly. Is it your judgment now that there will be or will not be the appointment of a special prosecutor by the attorney general? I'm not talking about reviving the old law; I'm talking about the current situation.

REP. LEACH: Well, at this time the attorney general has said no. It's my argument that she is in an ethical dilemma. She is the chief law enforcement officer of the United States. She's also the chief legal advisor to the president. And I don't see in an ethical/legal sense how one can appropriately advise and defend her client and at the same time forthcomingly pursue a prosecution.

MR. EVANS: So you've got a conflict of interest.

REP. LEACH: So you do have a conflict.

MR. EVANS: Second, if the Congress does revive, does pass the lapsed special prosecutor law, which goes outside the Justice Department, will there be time, would there be time to name such a person before the statute of limitations runs?

REP. LEACH: Well, there's a race here on the statute of limitations. For a number of kinds of offenses, the statute of limitations runs to the first week in March of this coming year, 1994. And so there is a lot of thought that if just some delay can occur, that certain things can be put aside.

MR. EVANS: Is that their game?

REP. LEACH: I would assume that it is. There are rumors to that effect, but I have no ability to verify it.

MR. EVANS: One more on the documents. How is it possible to know that they will or have turned over all the documents involving Whitewater? How could anybody possibly know that, Congressman?

REP. LEACH: Well, I don't think they can, because how we trace what the precise documents were that came out of the files of Mr. Foster -- and by the way, there's more than Whitewater that might be at stake here. The White House statement said everything related to Whitewater, but does that imply there might be something related to Madison that wasn't passed on or to McDougal that wasn't passed on? And what happened to all those files?

Beyond that, Whitewater is a company that quite mysteriously seems to have lost all its files. When the Clintons during the campaign hired an attorney in Colorado to review the circumstance, he came up with kind of a political rather than economic analysis conjecturing what might have been the case, not what was the case, because he did not have access to any of the files of Whitewater. And so one of the great questions is, where are these files?

MR. NOVAK: Congressman, we just have a minute before the break. Congressman Gonzales, your chairman, says that you have been following the advice of, quote, "political operatives within your party who are exerting tremendous pressure on you to link the fate of the Madison bank to -- the failure of the Madison bank directly to the president, even to the point of raising insensitive references to the sad case of the late Vince Foster," unquote. How are those political operatives who are pulling your strings, Mr. Leach?

REP. LEACH: Well, there are none. Quite frankly, one of the constitutional obligations of Congress is oversight of the executive branch when there are breaches of the law or ethics. When there is a probe to be underway, it's preferable that it be bipartisan. As the ranking member of the committee of jurisdiction in the House, I requested a bipartisan probe. It was turned down. So the question is, do you have no probe or do you proceed with Republican leadership? And it was my conclusion that it was better to proceed with Republican leadership in a little bit of a, quote, "partisan way," because I had no choice but to proceed. But no one suggested I do it. No one ordered me to do it. I am making my own decisions in my own way.

MR. NOVAK: We have to take a break, but I just need a yes or no answer. You cannot subpoena the Foster files, however, just the Republicans on the committee. Am I correct in that?

REP. LEACH: You're correct. You need a majority vote of the committee of jurisdiction.

MR. EVANS: Congressman, we have to take a break for some commercial messages. When we come back, we will have the big question for the congressman from Iowa.

(Announcements.)

MR. EVANS: Congressman Leach, you told us earlier in this show that it is possible, if there is a full investigation, it could lead to criminal charges against the president. Now, I ask you this in all sincerity. Taking the worst possible case from his standpoint, as you see this developing today, do you see any possibility that this could go further into the impeachment area?

REP. LEACH: Well, the strongest word in the American political vocabulary is impeachment. In my judgment, it would be inappropriate in this instance. I think what we have here is something that should be looked at more in the civil dimension of the law and something in the political context that ought to reflect on the character assessments of the public, and that the ultimate jury here should be the public at the ballot box, not the Congress in an impeachment proceeding. Unless there are bombs that I don't quite visualize at this point, I would think impeachment would be inappropriate and that we ought to be very cautious about even suggesting that in a conjectural way.

MR. NOVAK: Mr. Leach, are you disturbed or is your judgment questioned by the fact that not a single Democrat has called for a special prosecutor or an investigation of this case in Congress?

REP. LEACH: Well, I think we do have a little bit of a dual-edged morality here, that the special prosecutor was called for, perhaps abused a bit over the last eight or 10 years. I personally think it's an appropriate vehicle to have at one's disposal, but one should be very cautious when to call upon it. And in this case, my own sense is that I called for a special counsel, not prosecutor. And I stress the word counsel because I think the facts ought to be laid before the American people and that that's more important than a prosecution occurring, at least towards the White House. There may be other figures, by the way, that might be subject to prosecution here.

MR. NOVAK: Thank you very much, Jim Leach. My partner and I will be back with some comments after these messages.

(Announcements.)

MR. EVANS: Bob, you saw how careful the congressman was to separate civil and possible criminal penalties against the president from this awesome question of possible impeachment. He doesn't want to talk impeachment. I think he is right in taking that point of view.

MR. NOVAK: I think it's most interesting. The new allegation that I got out of this interview, Rowly, was that Jim Leach suggested that the White House, by giving the Vince Foster files to the Justice

Department, who then says, "We can't release them," is shielding the president and Mrs. Clinton from public exposure to these files.

MR. EVANS: But he didn't buy Hillary Clinton's statement that this was a losing investment; why worry about it. He said, look, those papers, the Whitewater documents, we don't know who won or lost, money or otherwise, and we may never even see those documents.

MR. NOVAK: What makes these charges so serious, Rowly, is that Jim Leach has never been a partisan Republican. He's a pretty liberal Republican. And so on Capitol Hill, when he makes charges like this, people listen. I only wish there were some Democrats here to answer him.

I'm Robert Novak.

MR. EVANS: I'm Rowland Evans.

MR. NOVAK: Happy New Year.

END

fense with any more budget authority. To the extent that there are corrections of reporting errors resulting in restoration of canceled unobligated balances to canceled "M" accounts, no additional budget authority is created or provided. All obligated balances in the "M" accounts involved in our September 29 decision were canceled on September 30, 1993. The disbursement of any obligation that should have been, but erroneously was not, carried in the "M" accounts prior to cancellation will come out of current funds. The only effect of our decision derives from the fact that charges to current appropriations for obligations of canceled merged balances are limited to the unobligated balances of the original appropriation account available for the same purpose. National Defense Authorization Act for fiscal year 1991, Pub. L. No. 101-510, 104 Stat. 1680, §1405(b)(7) (1990) (codified at 31 U.S.C. §1551 note). Consequently, in order to know how much current authority is available to cover old obligations, there needs to be an accurate rendering of the balances in the old accounts.

We understand that the Department of the Army does not intend to submit its request for correction of the alleged $130 million certification error in its year-end report. With regard to the Department of the Air Force errors that you mention in bour letter, to date the Air Force has not submitted a request for correction to Treasury. Additionally, under Treasury's proposed instructions implementing our decision, agencies will be allowed to request correction of mistakes in the accounts canceled on September 30 on only one occasion. Treasury would require agencies to submit their requests for correction by May 1, 1994, and to provide convincing evidence of the clerical error. Since, as we stated in our decision, the type of clerical errors that Treasury can correct should typically manifest themselves soon after the account is closed, we have informally suggested to Treasury staff that 6 months may be longer than necessary to allow for the correction of obvious errors.

We share your concern about the failure of the agencies to record obligations and expenditures as they occur and agree that this practice has exacerbated the problem of unmatched disbursements. We think, however, that current law adequately requires the agencies to record these obligations and expenditures. For example, 31 U.S.C. §§1501 and 1108 contemplate that each agency will record all valid obligations of the government and certify to the accuracy of its obligations in its budget submissions to the President and the Congress. Additionally, under 44 U.S.C. §3101, each federal agency head is required to make and preserve records containing adequate and proper documentation of its essential transactions in order to protect the legal and financial rights of the government. Further, under the Financial Managers' Financial Integrity Act, 31 U.S.C. §3512, and the Chief Financial Officers Act, 31 U.S.C. §901 et seq., agencies are required to establish systems of internal accounting and administrative controls which provide management with reasonable assurance that obligations are in compliance with applicable laws, and revenues and expenditures are properly accounted for and recorded to permit the preparation of accounts and reliable financial reports.

We think the statutes are clear with regard to the requirement for the proper recording of obligations and expenditures. What we think needs improvement is the execution of the requirement of these statutes. The reports cited in our decision point out the failure of DOD's accounting systems to meet these statutory requirements. For example, one of the reports found that the Navy has $12.2 billion in unmatched disbursements in its Standard Accounting and Reporting System. The problem there was not caused by the lack of statutory guidance, but rather was caused by the Navy's failure to comply with existing guidance, procedural requirements, and internal controls. We recommended that the Assistant Secretary of the Navy (Financial Management) enforce existing regulations and procedures which require the proper resolution of this problem.[1]

We think the Department's Chief Financial Officer must take the appropriate steps to address DOD's failure to record its obligations and expenditures and that other problems we all know exist. In this regard, continued oversight by the Congress and the audit community is the more effective response.

We trust that you will find this information useful.

Sincerely yours,

MILTON J. SOCOLAR,
Special Assistant to the Comptroller General.

Mr. GRASSLEY. Madam President, my questions to Mr. Bowsher were as follows: What was the legal authority for the decision to open the M accounts? And, second, how long will the Department of Defense have access to the M accounts beyond the statutory deadline already passed as of September 30, 1993? Last, what kind of remedial legislation is needed to address these issues in the future if, as I stated, the 1990 law that gives the Department of Defense authority to come to Congress, if there has been a clerical error, does not fill the needs of the Department of Defense?

I did receive an answer to that letter on December 27, 1993. The letters from Mr. Bowsher and Mr. Socolar did not help to bring the issue into sharper focus. What is the legal authority for allowing the Department of Defense to regain access to M accounts shut down 3 years ago? What is the authority for allowing the Department of Defense to draw on account balances that have been canceled by law? Both Mr. Bowsher and Mr. Socolar go to great lengths to deny the decision does what it is really designed to do: Help the Department of Defense get more money out of the back door. This is what Mr. Bowsher and Mr. Socolar said:

> Our decision does not provide the Department of Defense with any more budget authority.

Madam President, that is flat wrong. All of the fuss and all of the maneuvering tells me that money is indeed the issue. More money is at stake. The $130 million sought by the Army, that was a misplaced decimal, a clerical error, has been canceled by law. It is gone, it is wiped off the books. But that is $130 million more that was spent not appropriated by Congress.

Now Mr. Bowsher has dredged up an obscure legal gimmick to reauthorize that $130 million in the Army budget authority that was canceled by law. If that happens, then we are talking new budget authority; absolutely new budget authority without a bill passing Congress because the old budget authority was canceled by Congress.

So, Madam President, Mr. Bowsher is creating more budget authority. I think Mr. Bowsher made a bad decision. Unless Mr. Bowsher is able to identify a solid legal foundation to support his decision, he should withdraw the authority to reopen the M accounts. And if we do not get this settled with a more justified approach by the Comptroller General, I hope we in this body for future clerical errors, whether they are $130 million clerical errors, more or less, that we will reject them as we rejected such a request that was made under the 1990 law to the Congress of the United States, because anything short of doing that is just simply, through the back door, giving the Department of Defense the authority to spend hundreds of millions of dollars of more money.

I yield the floor.

MORNING BUSINESS

Mr. KERRY. Madam President, I ask unanimous consent that the Senat now be in a period for morning business, with Senators permitted to speak therein for up to 10 minutes each.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER (Mr MATHEWS). The Senator from Nev York.

CONSIDERATION OF PUBLIC AN REGULATORY POLICY—MADISO GUARANTY

Mr. D'AMATO. Mr. President, toda eight members of the Senate Bankin Committee have sent a letter to Chairman RIEGLE, a letter which I am no only going to read, but ask it be printed in the RECORD.

I ask unanimous consent that tha letter be printed in the RECORD.

There being no objection, the lette was ordered to be printed in th RECORD, as follows:

U.S. SENATE,
Washington, DC, January 26, 1994.

Hon. DONALD W. RIEGLE,
Chairman, Committee on Banking, Housing an Urban Affairs, U.S. Senate, Washington DC.

DEAR MR. CHAIRMAN: Notwithstanding th recent appointment of a special counsel t investigate potential criminal wrongdoing i connection with Madison Guaranty, a faile savings and loan, the constitutional respor sibility of Congress to consider the seriou questions of public and regulatory polic raised by this controversy remains.

Last December Senator D'Amato requeste Committee action with respect to this issu In the intervening time, numerous questior that fall within our Committee's legislativ and oversight jurisdiction have gone unar swered. A review of the limited informatio that is publicly available indicates a variet of germane issues that command the Committee's attention. We believe that th Banking Committee would be derelict in it duty if it does not address important issue such as:

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[1] GAO Report to the Acting Secretary of the Navy, "FINANCIAL MANAGEMENT—Navy Records Contain Billions in Unmatched Disbursements," GAO AFMD-89-53 (June 1989).

Is the RTC continuing its investigations into Madison and what is the status of any such investigation? How is it that the RTC was able to prepare criminal referrals as early as October 1992, but is unable to follow-up with a civil proceeding? Will the RTC complete any current investigations prior to the expiration of the statute of limitations one month from now?

Did the RTC act as quickly and effectively as possible to ensure that the Madison bail-out cost the taxpayers as little as possible?

Did the principal shareholders or officers of Madison direct Madison resources into other business ventures in which they were involved?

What caused the break-down of the FDIC's procedures for detecting and addressing conflicts-of-interest when the Rose Law Firm was retained to sue Frost and Co.?

Why did the FDIC agree to settle its $300 million case against Frost and Co. for $1 million, an amount that is allegedly less than the limit of the firm's malpractice insurance coverage?

This Committee has a solid and proud record of addressing concerns relating to the safety and soundness of insured depository institutions. We believe the Committee has the duty to review thoroughly these and other relevant issues and to obtain information that will be useful as the Committee continues to consider new legislative initiatives and to improve the existing legislative framework to ensure the protection of depositors and taxpayers.

In the light of this, pursuant to Rule 26.3 of the Standing Rules of the Senate, we request that you convene a special meeting of the Senate Committee on Banking, Housing and Urban Affairs to enable the full Committee to consider appropriate Committee action in connection with Madison. We believe the Committee must exercise its jurisdiction and examine the circumstances and events surrounding Madison's operations and failure.

Sincerely,

PHIL GRAMM,
CONNIE MACK,
ROBERT BENNETT,
WILLIAM ROTH,
ALFONSE D'AMATO,
CHRISTOPHER BOND,
LAUCH FAIRCLOTH,
PETE DOMENICI.

Mr. D'AMATO. Mr. President, before I tell you why the eight Republicans on the Banking Committee took this extraordinary action, I would like to discuss another issue pertaining to Madison Guaranty.

We have on two previous occasions, January 11 and January 25, requested that the RTC—that is the body responsible for any civil investigation—tell us when the statute of limitations expires on civil actions against Madison, and we have received nothing but shocking delays and still no official response to our request for this basic information.

The first letter was dated January 11; the last one January 25. My staff has been in constant contact and, indeed, we were promised a response yesterday.

As of this afternoon, we still have no response from the RTC. We still have not learned when the statute of limitations runs out on Madison and Whitewater. What we have here is shocking inaction. Now we learn—and we were told this only by telephone, and it was supposedly going to be confirmed by a letter to us the day before yesterday—and then it was promised to us yesterday, and then it was promised to us today—that the civil statute of limitations could possibly expire as soon as February 28. It appears quite possible that little, if anything, is being done to protect the taxpayers and to punish the wrongdoers, or bring about a recovery of taxpayers money.

During this critical period, valuable time has been lost, and this must stop. Mr. President, the clock is ticking. The statute of limitations is running out. And I have to suggest to you that this is a coverup by the RTC, which deliberately refuses to tell us when the statute of limitations is running out.

Now, they have had this matter for a number of years. There has been intense interest and scrutiny, and if their attorneys are doing anything, I cannot believe that they could not tell us within the last 2 weeks when the statute of limitations on civil liability runs out. And when they ignore the statute of limitations, justice is denied. Indeed, if it is February 28, we have a right to know. If it is March, we have a right to know. If it is August, we have a right to know. We also have a right to know what, if anything, is being done.

That brings me to the other reason for his statement. The Republican members of the Banking Committee wrote a letter to Chairman RIEGLE. Once before, I requested that the Banking Committee conduct hearings. Now, since I made that request, I must point out special counsel has been appointed, but special counsel is going to look only into criminal matters. Possible civil actions that would toll the statute is not a matter that the special counsel is reviewing. If the RTC continues to conduct itself as it has, what we are going to face is a situation where the statute of limitations has run out, there has been no attempt to toll the statute by way of a voluntary agreement. The people are going to be denied the truth and taxpayers are going to be denied the ability to recover any moneys to which they might be entitled. It was that which prompted all of the Members on the Republican side to join in this letter to Chairman RIEGLE.

Let me read it to you:

Dear Mr. Chairman: Notwithstanding the recent appointment of a special counsel to investigate potential criminal wrongdoing in connection with Madison Guaranty, a failed savings and loan, the constitutional responsibility of Congress to consider the serious questions of public and regulatory policy raised by this controversy remains.

Last December Senator D'AMATO requested committee action with respect to this issue. In the intervening time, numerous questions that fall within our committee's legislative and oversight jurisdiction have gone unanswered. A review of the limited information that is publicly available indicates a variety of germane issues that command the committee's attention. We believe that the Banking Committee would be derelict in its duty if it does not address important issues such as:

Is the RTC continuing its investigation into Madison and what is the status of any such investigation?

Mr. President, if I may interject a comment here. That is a very simple, forthright request. We do not get any answers from the RTC. Certainly the Congress of the United States has an obligation to ascertain this kind of information. The letter goes on:

How is it that the RTC was able to prepare criminal referrals as early as October 1992 but is unable to follow-up with a civil proceeding?

Mr. President, again, I would mention, that is a rather shocking situation. Criminally, they have moved ahead, but as it relates to the civil action, they cannot even tell us when the statute of limitations runs out. They tell my staff on the telephone that it may be February 28. They tell us that they are going to answer in writing but we have no answer. The letter goes on further:

Will the RTC complete any current investigations prior to the expiration of these statutes of limitations one month from now?

Did the RTC act as quickly and effectively as possible to ensure that the Madison bail-out cost the taxpayers as little as possible?

Mr. President, if I may interject again—certainly that is well within the purview of the Congress of the United States and the Banking Committee to ascertain. Should we wait until the statute of limitations runs out and then have a moot and academic question? Is that what this is about? Does that not seem like an RTC coverup? I suggest it is. Let me continue with the letter:

Did the principal shareholders or officers of Madison direct Madison resources into any other business ventures in which they were involved?

What caused the breakdown of the FDIC's procedures for detecting and addressing conflicts of interest when the Rose law firm was retained to sue *Frost and Co*?

Why did the FDIC agree to settle its $300 million case against Frost and Co. *for* $1 million, an amount that is allegedly less than the limit of the firm's malpractice insurance coverage?

Mr. President, again I believe that cries out for an answer, and an answer now, not after the statute of limitations runs.

Mr. President, I would point out that the clock is ticking. And there are those who, it appears to me, would like that clock to tick right on past and the American people be lulled to sleep and the Congress to be lulled to sleep. Mr. President, the letter continues:

This Committee has a solid and proud record of addressing concerns relating to the safety and soundness of insured depository institutions. We believe the Committee has the duty to review thoroughly these and other relevant issues and to obtain information that will be useful as the Committee continues to consider new legislative initiatives and to improve the existing legislative framework to ensure the protection of depositors and taxpayers.

In light of this, pursuant to rule 26.3 of the Standing Rules of the Senate, we request that you convene a special meeting of the Senate Committee on Banking, Housing, and

Urban Affairs to enable the full Committee to consider appropriate Committee action in connection with Madison. We believe the Committee must exercise its jurisdiction and examine the circumstances and events surrounding Madison's operations and failure.

The letter is signed by myself as ranking member, Senator GRAMM, Senator BOND, Senator MACK, Senator FAIRCLOTH, Senator BENNETT, Senator ROTH, and Senator DOMENICI.

Mr. President, let me conclude by saying that this matter is not going to go away. Let me say that the clock is ticking. Here we are, the end of January, and we are talking about possibly 28 days remaining to find out the answers to these perplexing problems. We understand why it is and how it is that some may be afraid to take up this question, but I have to tell you that we have a responsibility of seeking the truth. This Senator, nor any of my colleagues who joined in this letter, make no charges of wrongdoing, but I do suggest that the RTC has an obligation to be responsive not only to the Congress but to the people of the United States. We are talking about a situation where an institution has been bilked of millions and millions of dollars, and I say bilked because we find people who borrowed huge sums of money but who paid back little or none of it.

We have a situation where the statute of limitations is running out, and as of February 28, if the RTC is correct in their telephone conversations with me. The statute may bring to an end any ability to pursue claims that the American taxpayers may justifiably have. The the RTC hides this in the shroud that the statute has run. That is not good enough. I hope that this body will not be a party to the RTC's silence by our acquiescence to what seems at the present time to be an RTC coverup. The American people are entitled to the truth.

Mr. President, I yield the floor.

Mr. NICKLES. Mr. President, I wish to compliment my friend and colleague from New York for his statement in this matter. I happen to concur with his statement on this issue.

I would also like to compliment Senator DOLE for basically expressing some of the concerns that are needed to be expressed by this body.

STATEMENT OF SENATOR HATCH REGARDING HIS SENSE-OF-THE-SENATE RESOLUTION ON RECOGNITION OF ISRAEL

At the request of Senator D'AMATO, the following statement, and a sense-of-the-Senate resolution, were ordered to be printed in the RECORD:

• Mr. HATCH. Mr. President, this amendment is simple and straightforward. It urges the Department of State to request that recipients of American foreign assistance recognize Israel. I do not believe that the State Department has done enough to bring down the diplomatic walls that continue to isolate Israel, and it is my hope that this amendment serves as a catalyst for action.

Israel has existed since May 1948, yet 49 countries have failed to recognize her legitimate right to exist. Of this number, 32 countries receive some form of assistance from the United States. These states are shown on the map. It is imperative that these countries in particular understand the importance that the United States attaches to its relationship with Israel.

In fact, it is time that the international community treat Israel with the respect it deserves. Israel has existed for almost 46 years and is the most willing partner in the peace process. It should be commended rather than condemned and ignored by members of the international community.

In 1992 alone, China and India both recognized Israel. I should point out that I am pleased that Madagascar, which is on this map, decided to establish diplomatic ties with Israel beginning yesterday. Unfortunately, a large number of states have failed to follow their lead.

During the past 2 years, I have personally sent letters with a number of my colleagues to the leaders of Indonesia, Pakistan, and Bangladesh requesting them to recognize Israel. I have appealed personally to ambassadors of these countries. It is hard for me to understand how the PLO can enter into negotiations with Israel and yet these countries refuse to establish ties with Israel.

I do not understand why Indonesia, the largest Moslem country in the world, is unable to establish diplomatic relations with Israel. I do not understand why Pakistan is unable to do so. I do not understand precisely why Bangladesh, which has received substantial American aid during a series of natural disasters, denies one of our most important allies the most basic and fundamental right accorded to a state.

I do not understand why Kuwait—a country that the United States helped liberate from Iraqi aggression—has not recognized Israel. While Kuwait does not receive direct American aid at this point, it was the most direct beneficiary of the Persian Gulf war.

Most important, I do not understand why the State Department is not doing more in this area. The United States will provide over $823 million to 32 of these countries that do not recognize Israel. I believe that every U.S. Ambassador in such a country should be required to raise this issue with the host government.

I believe that only then, will these countries get the message that the United States is serious about this matter.

The amendment to be proposed reads as follows:

AMENDMENT NO. —

(Purpose: To express the sense of the Senate regarding Israel's diplomatic status)

At the appropriate place in the bill, insert the following:

SEC. . The Congress finds that:

Whereas Israel continues to be a leader in the Middle East peace process and the only democracy in the region;

Whereas on May 14, 1948, the United States was the first country to accord de facto recognition to Israel;

Whereas after over 46 years of independence Israel is recognized only by 133 countries around the world;

Whereas 49 countries have no diplomatic relations with Israel, including 32 that collectively receive in FY 94 over $823 million in U.S. foreign assistance;

Whereas China and India recognized the state of Israel in 1992;

Whereas Israel is a legitimate state and sovereign entity that deserves to be accorded full diplomatic recognition by members of the international community;

Whereas the following states will receive direct and indirect U.S. foreign assistance this year and have failed to recognize Israel: Afghanistan; Algeria; Bahrain; Bangladesh; Botswana; Burundi; Cape Verde; Chad; Djibouti; Ghana; Guinea; Guinea-Bissau; Indonesia; Jordan; Laos; Lebanon; Madagascar; Maldives; Mauritania; Morocco; Namibia; Niger; Oman; Pakistan; Rwanda; Senegal; Somalia; Sri Lanka; Tanzania; Tunisia; Uganda; and Yemen.

Resolved, It is the sense of the Senate that the Secretary of State should make the issue of Israel's diplomatic status a priority and urge countries that receive American aid to immediately establish full diplomatic relations with the state of Israel.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma [Mr. NICKLES] is recognized.

IMPORTANT ISSUES RAISED BY WHITEWATER INVESTIGATION

Mr. NICKLES. Mr. President, I rise today concerning a matter known as Whitewater—a 230-acre development in the Ozark Mountains of Arkansas that was partially owned by Bill and Hillary Clinton from 1978 until just after his election as President.

They sold their interest to James McDougal, their partner in Whitewater and former owner of Madison Guaranty, a failed savings and loan institution, and they reported a $1,000 capital gains on their 1992 tax returns. But since November, there has been intense media-coverage of the web of relationships, and questionable actions which raised several serious issues and questions that point to the need for congressional hearings.

As most of my colleagues know, congressional hearings concurrent with investigations by a special counsel are not without precedent. We all remember the Iran-Contra independent counsel and the joint committee of Congress which concurrently held hearings.

Let me state at the outset that the President, both directly and through his spokesmen, have repeatedly denied any wrongdoing. And I hope for their sake, and for the sake of the Presidency and our Nation, that they are right.

But Mr. President, several newspapers with national reputations for accuracy and credibility, including the New York Times, Wall Street Journal,

Congressional Record dated Friday, January 28, 1994
Senate Section

Remarks by D'AMATO (R-NY)
CONSIDERATION OF PUBLIC AND REGULATORY POLICY--MADISON GUARANTY
[CR page S-359, 9 lines]

Attributed to D'AMATO (R-NY)

CONSIDERATION OF PUBLIC AND REGULATORY POLICY--MADISON GUARANTY

Mr. D'AMATO. Mr. President, today eight members of the Senate Banking Committee have sent a letter to Chairman Riegle, a letter which I am not only going to read, but ask it be printed in the Record.

I ask unanimous consent that that letter be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Text Inserted by D'AMATO (R-NY) [CR page S-359, 54 lines]

U.S. Senate,
Washington, DC, January 28, 1994.

Hon. Donald W. Riegle,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate,
Washington, DC.

Dear Mr. Chairman: Notwithstanding the recent appointment of a special counsel to investigate potential criminal wrongdoing in connection with Madison Guaranty, a failed savings and loan, the constitutional responsibility of Congress to consider the serious questions of public and regulatory policy raised by this controversy remains.

Last December Senator D'Amato requested Committee action with respect to this issue. In the intervening time, numerous questions that fall within our Committee's legislative and oversight jurisdiction have gone unanswered. A review of the limited information that is publicly available indicates a variety of germane issues that command the Committee's attention. We believe that the Banking Committee would be derelict in its duty if it does not address important issues, such as:

Is the RTC continuing its investigations into Madison and what is the status of any such investigation? How is it that the RTC was able to prepare criminal referrals as early as October 1992, but is unable to follow-up with a civil proceeding? Will the RTC complete any current investigations prior t the expiration of the statute of limitations one month from now?

Did the RTC act as quickly and effectively as possible to ensure that the Madison bail-out cost the taxpayers as little as possible?

Did the principal shareholders or officers of Madison direct Madison resources into other business ventures in which they were involved?

What caused the break-down of the FDIC's procedures for detecting and addressing conflicts-of-interest when the Rose Law Firm was retained to sue Frost and Co.?

Why did the FDIC agree to settle its $60 million case against Frost and Co. for $1 million, an amount that is allegedly less than the limit of the firm' malpractice insurance coverage?

This Committee has a solid and proud record of addressing concerns relatin to the safety and soundness of insured depository institutions. We believe the Committee has the duty to review thoroughly these and other relevant issues and to obtain information that will be useful as the Committee continues to consider new legislative initiatives and to improve the existin legislative framework to ensure the protection of depositors and taxpayers.

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Sincerely,

Phil Gramm,
Connie Mack,
Robert Bennett,
William Roth,
Alfonse D'Amato,
Christopher Bond,
Lauch Faircloth,
Pete Domenici.

Remarks by D'AMATO (R-NY) and NICKLES, DON (R-OK)
[CR page S-360, 149 lines]

Mr. D'AMATO. Mr. President, before I tell you why the eight Republicans on the Banking Committee took this extraordinary action, I would like to discus another issue pertaining to Madison Guaranty.

We have on two previous occasions, January 11 and January 25, requested that the RTC--that is the body responsible for any civil investigation--tell us when the statute of limitations expires on civil actions against Madison, and we have received nothing but shocking delays and still no official response to our request for this basic information.

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During this critical period, valuable time has been lost, and this must stop. Mr. President, the clock is ticking. The statute of limitations is running out. And I have to suggest to you that this is a coverup by the RTC, which deliberately refuses to tell us when the statute of limitations is running out.

Now, they have had this matter for a number of years. There has been intense interest and scrutiny, and if their attorneys are doing anything, I cannot believe that they could not tell us within the last 2 weeks when the statute of limitations on civil liability runs out. And when they ignore the statute of limitations, justice is denied. Indeed, if it is February 28, we have a right to know. If it is March, we have a right to know. If it is August, we have a right to know. We also have a right to know what, if anything, is being done.

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Mr. President, again, I would mention, that is a rather shocking situation Criminally, they have moved ahead, but as it relates to the civil action, they cannot even tell us when the statute of limitations runs out. They tell my staff on the telephone that it may be February 28. They tell us that they are going to answer in writing but we have no answer. The letter goes on further:

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Did the RTC act as quickly and effectively as possible to ensure that the Madison bail-out cost the taxpayers as little as possible?

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Mr. President, again I believe that cries out for an answer, and an answer now, not after the statute of limitations runs.

Mr. President, I would point out that the clock is ticking. And there are those who, it appears to me, would like that clock to tick right on past and the American people be lulled to sleep and the Congress to be lulled to sleep. Mr. President, the letter continues:

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> In light of this, pursuant to rule 26.3 of the Standing Rules of the Senate, we request that you convene a special meeting of the Senate Committe on Banking, Housing, and Urban Affairs to enable the full Committee to consider appropriate Committee action in connection with Madison. We believe the Committee must exercise its jurisdiction and examine the circumstances and events surrounding Madison's operations and failure.

The letter is signed by myself as ranking member, Senator Gramm, Senator Bond, Senator Mack, Senator Faircloth, Senator Bennett, Senator Roth, and Senator Domenici.

Mr. President, let me conclude by saying that this matter is not going to go away. Let me say that the clock is ticking. Here we are, the end of January, and we are talking about possibly 28 days remaining to find out the answers to these perplexing problems. We understand why it is and how it is that some may be afraid to take up this question, but I have to tell you tha we have a responsibility of seeking the truth. This Senator, nor any of my colleagues who joined in this letter, make no charges of wrongdoing, but I d suggest that the RTC has an obligation to be responsive not only to the Congress but to the people of the United States. We are talking about a situation where an institution has been bilked of millions and millions of dollars, and I say bilked because we find people who borrowed huge sums of money but who paid back little or none of it.

We have a situation where the statute of limitations is running out, and a of February 28, if the RTC is correct in their telephone conversations with me. The statute may bring to an end any ability to pursue claims that the American taxpayers may justifiably have. The the RTC hides this in the shrou that the statute has run. That is not good enough. I hope that this body wil not be a party to the RTC's silence by our acquiescence to what seems at the present time to be an RTC coverup. The American people are entitled to the truth.

Mr. President, I yield the floor.

Mr. NICKLES. Mr. President, I wish to compliment my friend and colleague from New York for his statement in this matter. I happen to concur with his statement on this issue.

I would also like to compliment Senator Dole for basically expressing some of the concerns that are needed to be expressed by this body.

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Remarks by NICKLES, DON (R-OK) and D'AMATO (R-NY)
IMPORTANT ISSUES RAISED BY WHITEWATER INVESTIGATION
[CR page S-361, 313 lines]

Attributed to NICKLES, DON (R-OK)

IMPORTANT ISSUES RAISED BY WHITEWATER INVESTIGATION

Mr. NICKLES. Mr. President, I rise today concerning a matter known as Whitewater--a 230-acre development in the Ozark Mountains of Arkansas that was partially owned by Bill and Hillary Clinton from 1978 until just after his election as President.

They sold their interest to James McDougal, their partner in Whitewater and former owner of Madison Guaranty, a failed savings and loan institution, and they reported a $1,000 capital gains on their 1992 tax returns. But since November, there has been intense media coverage of the web of relationships, and questionable actions which raised several serious issues and questions that point to the need for congressional hearings.

As most of my colleagues know, congressional hearings concurrent with investigations by a special counsel are not without precedent. We all remember the Iran-Contra independent counsel and the joint committee of Congress which concurrently held hearings.

Let me state at the outset that the President, both directly and through his spokesmen, have repeatedly denied any wrongdoing. And I hope for their sake, and for the sake of the Presidency and our Nation, that they are right.

But Mr. President, several newspapers with national reputations for accuracy and credibility, including the New York Times, Wall Street Journal, Los Angeles Times, Chicago Tribune, the Associated Press, Washington Post, and the Washington Times, have published scores of reports on this matter. Several reports strongly suggest that procedures and rules were not followed, and yes, that laws were broken that resulted in millions of taxpayers' dollars being lost. Based on published reports, here are some of the serious issues that are being raised that I believe merit congressional hearings:

First, the New York Times reported on March 8, 1992, that Bill and Hillary Clinton's 50-percent stake in Whitewater was the result of "little money" being invested by them. Does this constitute a gift to Bill Clinton, who was then Arkansas's Attorney General, it's top law enforcement officer, and a candidate for Governor?

This question is important: If a gift of money or a loan was made to help make Bill and Hillary Clinton full partners in the investment, then it might answer, in part, some of the other actions the special counsel is now investigating.

Second, did Bill Clinton's 1984 reelection campaign receive money illegall from Madison Guaranty, so it could pay off a $50,000 debt owned by the candidate to another bank? In the late stages of his 1984 reelection campaign, Governor Clinton took out a personal loan of $50,000 and lent it t his campaign.

The New York Times on November 2, 1993, reported that Bill Clinton put McDougal in charge of paying off that debt. McDougal held a debt-retirement fundraiser for Clinton in April 1985. Several published reports suggest that McDougal illegally diverted money from the Savings & Loan into Clinton's campaign. The Arkansas Democrat Gazette newspaper reported on January 15, 1994, that at least one person listed as having donated money at that event has denied contributing to Clinton.

Third, did Governor Clinton pressure a lender to illegally issue an SBA-backed loan to Susan McDougal, the wife of his business partner? David Hale was the owner of Capital Management Services, a specialized small business investment company who by law was only allowed to lend money to disadvantage business owners. He is now under indictment for defrauding the SBA on other loans not related to Whitewater.

Mr. Hale has now stepped forward to allege that Governor Clinton not only pressured him into giving a $300,000 loan to Susan McDougal for Whitewater purposes, but that he met with the Governor and James McDougal to structure the loan. Let me quote from a Washington Times story of November 4, 1993:

They all knew Mrs. McDougal did not legally qualify for the SBA loan, Mr. Hale said, and at this second meeting Mr. Clinton told him that the Clinton name could not be associated with the deal, [quote], "anywhere in this, anywhere at all."

That is a very, very serious charge, Mr. President. This former county and municipal judge alleges that the Governor of Arkansas knowingly help defraud the Small Business Administration for a $300,000 loan, a loan he stood to benefit from as coowner of Whitewater Development. Mr. Hale said he never sa Susan McDougal in the course of issuing the loan.

It was this allegation, along with Mr. Hale's indictment on unrelated charges, that got Congress' attention. Not just that of Congressman Jim Leac but the chairman of the House Small Business Committee, Congressman John LaFalce, a Democrat. On November 5, he asked the SBA for a full report on th matter. I commend him for his leadership. He asked the SBA for their report by November 15. We have not yet seen that report.

The first Senator to step forward was our colleague from North Carolina, Lauch Faircloth, who in early November had the foresight to ask for the appointment of a special counsel. I commend my colleague for pursuing this matter.

Fourth, did Governor Clinton in 1984 pressure his Whitewater business partner, James McDougal, into hiring Hillary Rodham Clinton to handle some o Madison's legal business?

The Los Angeles Times on November 7, 1993, reported McDougal said Clinton stopped by after a morning jog to tell him that family finances were tight and ask if he could please throw some of Madison Guaranty Savings' legal business to his attorney wife, Hillary Rodham Clinton. When asked how much they needed, Clinton said "$2,000 a month," according to McDougal. Hillary Clinton, then with the Rose law firm, began accepting a $2,000-a-month retainer from Madison Guaranty.

Several newspapers, including the Washington Post on January 24, 1994, reported that Hillary Rodham Clinton in 1985 also helped prepare a stock reissue plan for Madison to a State securities commissioner, Beverly Bassett Schaefer, whom Governor Clinton had just appointed. The new commissioner's brother had been Clinton's campaign manager. The stock reissue plan was approved.

Were any laws broken? Perhaps not. But it is important to know whether, an to what extent, this obvious conflict of interest contributed to Madison's failure, which cost the taxpayers of this country an estimated $47 million.

Fifth, were Bill and Hillary Clinton passive stockholders in the managemen of Whitewater, as they claim? The President and White House spokesmen say yes. But several media reports suggest otherwise. The Washington Times on November 4, 1993 and other publications have outlined several financial transactions by Whitewater directly involving the Clintons.

In that story, the Washington Times reported that in 1987, Hillary Rodham Clinton asked James McDougal to deliver Whitewater's records to the governor's mansion. In 1988, Hillary Rodham Clinton asked for power of attorney over all of Whitewater's affairs. That does not constitute passive involvement. Those records, by the way, are apparently missing.

Sixth, the Washington Post reported on November 3, 1993, that in 1989, the Rose law firm sought the FDIC's business to prosecute Madison Guaranty after it had failed, in hopes of recovering lost assets. The FDIC sought to captur $60 million. The Rose law firm settled for merely $1 million. The lead attorney was Rose's managing partner, Webster Hubbell, now Associate Attorne General of the United States.

Why is that important? Remember that the Rose law firm, where Hillary Rodham Clinton was a partner, had represented Madison for 15 months, during 1984 and 1985. The Rose firm sought the FDIC's business in a letter signed b then-senior partner Vincent Foster. Foster said the following in that letter to the FDIC: "The firm does not represent any savings and loan association i state or federal regulatory matters."

Webster Hubbell and the FDIC have a difference of opinion over whether

Hubbell told them that he had a potential conflict of interest, including the fact his father-in-law, Seth Ward, had done substantial business with Madison. The Rose firm collected a fee of $400,000.

Mr. President, the Rose firm had no business soliciting the FDIC for business to prosecute a savings & loan it had once represented. The FDIC clearly should not have given them that business. Just how they got the business, and why they sought it, given all the relationships involved, and given how much the taxpayers of this country lost as a result of Madison's failure, is an extremely important question.

Needless to say, when they were only successful in obtaining $1 million when FDIC was seeking $60 million, and of the $1 million that was obtained, $400,000 went to the law firm, and the fact that that law firm previously represented the S&L is an obvious conflict of interest, and needless to say the taxpayers really came out on the short end of the stick.

Seventh, Paula Casey was nominated by President Clinton, and was confirmed by this body, as the U.S. attorney for the Eastern District of Arkansas. She has a long-standing relationship with the President. She was a law student o Bill Clinton's when he was a professor at the University of Arkansas in the 1970's. She had been a campaign volunteer.

On November 9, 1993, the Associated Press and others reported that she recused herself from an RTC criminal referral to the Justice Department involving the use of Whitewater in a check-kiting scheme. The criminal referral targeted James and Susan McDougal, and mentioned that Bill and Hillary Clinton could have benefited from it, although there was no evidence to support that.

But the Washington Post reported on November 11, 1993, that only 2 weeks earlier, Casey wrote the RTC to concur with the Justice Department's decision that a criminal probe was not warranted. Why did she not recuse herself then?

Mr. President, the Department of Justice Manual for U.S. attorneys is quite specific about recusals. Recusals are required if a conflict of interest exists, and I quote, "because a U.S. attorney has a personal interest in the outcome of the matter or because he/she has or had a professional relationship with parties or counsel; or for other good cause * * *."

If she found reason to recuse herself on November 9, as Whitewater was publicly unraveling, why didn't she recuse herself before it began hitting the front pages of the Nation's newspapers? It appears she violated Department of Justice rules, and we deserve an explanation.

Eighth, it was not revealed until December 21, in the Wall Street Journal, just before Christmas, that two White House political aides, including the Chief of Staff for Mrs. Clinton, had entered Vince Foster's office shortly after he committed suicide to remove files related to Whitewater. For 5 months, the White House and the Clinton's attorney not only had possession o records, but kept it a secret.

Unlike the other issues, this one does involve the President of the United States and the White House staff. What happened to the files after they were removed from Vince Foster's office? Why were the records not turned over to the Park Police as part of their initial investigation? Did they mislead the Park Police in the course of an official investigation?

Why the secrecy? What was the White House trying to hide?

This is clearly an ethical matter which should be looked into. We need to know whether the White House violated ethics rules or broken the law in the handling of these files from the time of Vince Foster's death until they were supposedly turned over to the Justice Department just last week.

President Clinton stated on December 23 he would turn over the documents to the Justice Department. They were not turned over until the week of January 18--over 3 weeks had transpired--and then only after they were issued under the quise of a subpoena, which keeps those records from being made public. Again, why is there secrecy? This is not some transaction that has a great deal of insight and intrusion into a family matter. This is a real estate transaction. Why the secrecy? Why are the trying to hide? Why not make these records public and answer these questions and get this issue totally behind us?

Ninth, how much did the Clintons actually make or lose from their Whitewater investment?

Why is this important? It raises a question whether the American people were deliberately mislead by the Clinton campaign in 1992 on Whitewater; whether as early as March 1992, a coverup was underway.

In the 1992 campaign, after the New York Times first broke the story about Whitewater, candidate Bill Clinton on March 12 commissioned a full financial review of the land deal. He asked a Denver attorney and friend, James Lyons, to lead the effort along with a Denver forensic accounting firm.

The Lyons report said the Clintons lost more than $60,000 in Whitewater. But the Lyons report has come under assault for not mentioning some very important facts, which have been outlined in a Wall Street Journal story of January 4, 1994.

But Time magazine on January 24, 1994, after reviewing land records in Madison County, AK, came up with some new information: The Clintons and the McDougals originally brought the land for about $882 per acre in 1978. A year later, they sold the land to Whitewater Development for $1,087 an acre. Who owned Whitewater? James and Susan McDougal and Bill and Hillary Clinton. This transaction strongly suggests that the Clintons made thousands of dollars off Whitewater.

If the Clinton's lost so much money, Mr. President, why did they not claim that loss on their tax returns? In their 1992 tax returns, they actually claimd a $1,000 capital gains from the sale of their Whitewater investment to partner James McDougal. McDougal himself has said the loss probably totaled about $9,000. We deserve to know the truth.

There are a few other things the Lyons report glossed over.

It failed to even mention Whitewater's single largest transaction, the purchase of over 1,000 acres from International Paper Corp.

It failed to mention a highly unusual airplane-for-land swap between Whitewater and James McDougal involving Webster Hubbell's father-in-law, a Madison subsidiary employee.

And it forgot to mention that Whitewater failed to file tax returns for 3 years.

That is issue No. 10. Why did Whitewater not file tax returns for 3 years?

Now Mr. President, you and I file tax returns. It is no secret that every working American, every family, every corporation in this country, by law, must file a tax return, even if they do not owe any taxes, even if they lost money. Failure to file is a crime.

It was not revealed until December 19, 1992, in the Washington Post that the Clintons discovered after the election that Whitewater had not paid taxe for 3 years. Keep in mind, the President's friend, Mr. Lyons, had conducted Whitewater review in 1992, to investigate the entire Whitewater episode. But it was not discovered until after the election that they had not paid taxes.

The President-elect and Mrs. Clinton directed Vince Foster, working with Whitewater accounts, to prepare the returns. They were filed in June of last year.

Mr. President, Whitewater was involved in the failure of a federally insured savings and loan, a failure that cost taxpayers at least $47 million. Whitewater was involved in the apparent defrauding of the Small Business Administration. Whitewater failed to file Federal income tax for 3 years. Whitewater was the subject of a criminal referral by the Resolution Trust Corporation. And now Whitewater records under Vince Foster's control may hav been mishandled, even hidden from those investigating his death.

Mr. President, the Clintons own, or reported that they own one-half of Whitewater.

Mr. President, how long have we been hearing President Clinton talk about the last 12 years? How many times have we heard the 1980's being referred to as the decade of greed when the rich benefited at the expense of middle-clas Americans? How many times have we heard in this very Chamber the savings and loan debacle being the symbol of the 1980's? How many times did the Members call for investigations and independent counsels and actually conduct hearings?

Where are they now, Mr. President? Where are the Senate Banking Committee hearings and investigations into wrongdoing involving cozy relationships and sweetheart deals between public officials, lawyers, and insiders, and sweetheart deals paid for by the rest of us? The silence is deafening.

Mr. President, this matter demands not just special counsel; it demands congressional hearings. We need to do our job. We need to find out the facts We owe it to the American people. We owe it to middle-class Americans who live by the rules, who pay the taxes, who file tax returns, and who deserve to know the truth.

Again, Mr. President, I compliment my friend and colleague, Senator D'Amat from New York, and Senator Dole. I would urge that the Banking Committee would follow on their request and have an expeditious hearing, not to slande anyone, but just to find out the facts and to answer these questions that ar being asked, not just by myself but they are being asked by countless Americans who want to know the truth about Whitewater so we can close this episode.

Mr. President, I thank you for your indulgence, and I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I commend Senator Nickles, my colleague, for putting forth a number of questions that I think the American people have a right to know.

Let me add that we have been unable to ascertain even the most basic facts It seems ludicrous to me that the Resolution Trust Corp. could not tell us when the statute of limitations runs out--incredible. Let me say unbelievable. Let me go further and say it is not worthy of belief that afte all this time they cannot say that the civil statute of limitations on actions that might be brought against those people who may have been principals in Madison is X, Y, Z period of time.

They said they were studying it 2 weeks ago--2 weeks ago. Do you mean to tell me that is how you conduct an investigation? You do not even look to se when an action may or may not be capable of being brought?

Then, again, when they get back to us 2 weeks later, they begin to suggest and play games and say, well, we think it may be February 28. We are not sure. We are going to send you a letter. One day goes by. Two days go by. No we will be in the month of February when we come back here. And what happens when we ask for documents? We are told the Privacy Act precludes documents that a Congressman or Senator or his staff might want access to.

That is why it is absolutely imperative that we have the Senate Banking Committee review these documents so that it takes it out of that area in which a privilege is asserted. We do not want anybody to break the law. We d not want the Privacy Act violated and it is alleged that only a committee ha the right to review these documents.

I can assure this body that this Senator does not intend to remain silent, that when we reconvene Tuesday I will come back to the floor to bring this u with some more explicit information, and hopefully we will have an answer tc our simple question by the RTC by that time. I say hopefully, but I do not believe it.

When I get that letter telling me exactly when the statute of limitations runs out, then I will believe it. We have not been dealt with squarely. We have been given the bum's rush. And I do not intend to sit by and allow this to take place.

It does not take more than 2 weeks. Again, our first letter went out January 11, and here we are the end of January. Our second inquiry by way of letter was January 25. In the interim we had numerous phone conversations with staff, personal visits with RTC staffers.

This is being stonewalled, and the clock is ticking, time is running. So now we have maybe 30 days after this weekend. Oh, by the way, we have the President's holiday. We may just about come back on the 28th. And at that point someone will say: Oh, my gosh, why did you not tell us before? The clock is ticking and the time has run out. It is too late.

We are serving notice that we want people to know that the clock is ticking and that the time is running out and the American people are entitled to answers.

I yield the floor.

The PRESIDING OFFICER. The clerk will call the roll.

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LEGI-SLATE Report for the 103rd Congress    Fri, January 28, 1994  4:44pm (EST
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Friday, January 28, 1994
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Article 39307   (36 lines)

D'Amato Will Try to Force Banking Committee Hearing on Whitewater

WASHINGTON, January 28 -- Citing an obscure Senate rule, the top Republican on the Banking Committee, Sen. Al D'Amato (R-NY), will try to force the committee to hold a hearing on the Whitewater allegations.

Under the rule, if at least three members of a committee request a special meeting, the chairman is given three days to schedule one. If he declines to set the meeting up, a majority of committee members may override the chairman.

Banking Committee Chairman Don Riegle (D-MI) has previously refused to initiate an investigation, noting the overturned convictions of Oliver North and John Poindexter which stemmed from the limited immunity granted to them in the Iran-Contra investigations.

D'Amato said imminent hearings were needed because the statute of limitations on civil proceedings in the Madison Guaranty Savings and Loan case, given a criminal referral by the RTC last October, could run out as soon as February 28.

"We have twice requested that the RTC tell us when the statute of limitations expires on civil actions against Madison," D'Amato said. "We have received nothing but shocking delays and still no official response to our requests for information."

Allegations stemming from Madison's connection to the Whitewater Development Corporation and the President and Mrs. Clinton's involvement with them led to the appointment of Special Counsel to investigate the case two weeks ago.

But D'Amato insisted that the Special Counsel investigation was not enough. He noted that the Banking Committee had clear congressional jurisdiction over any investigation.

To invoke the Senate rule, D'Amato and the other seven Republicans on the panel sent a letter to Riegle requesting the meeting.

Report is Completed

U.S. SENATOR
Al D'Amato **News Release**
NEW YORK
Contacts: Washington • Frank Coleman • 202/224-6498 New York • Zenia Mucha • 212/736-3865

FOR IMMEDIATE RELEASE:
Friday, January 28, 1994

CONTACT: Frank Coleman
(202) 224-6498

ALL EIGHT BANKING REPUBLICANS ASK FOR SPECIAL MEETING ON WHITEWATER

D'AMATO BLASTS RTC FOR "SHOCKING DELAYS" IN RESPONSE TO QUERIES

WASHINGTON -- U.S. Senator Alfonse M. D'Amato (R-NY) and all eight Republicans on the Banking Committee today announced they are requesting a special meeting of the committee to pursue hearings or an investigation of the failed Arkansas S&L Madison Guaranty and its connection to the Whitewater Development Company.

D'Amato, the senior Republican on the committee, said, "We have twice requested that the RTC (Resolution Trust Corporation) tell us when the statute of limitations expires on civil actions against Madison.

"We have received nothing but shocking delays and still no official response to our requests for information," D'Amato added. "Now we learn that the civil actions could expire as soon as February 28th, and it appears that they are taking little, if any action to protect the taxpayers and to punish the wrongdoers."

The Senator noted that although the RTC made criminal referrals as early as October, 1993, they have been dragging their feet on the civil side.

"During this critical period, valuable time has been lost. This must stop," D'Amato charged.

In a letter to Chairman Donald Riegle (D-MI) calling for the special meeting--authorized under the Senate rules--the Senators noted Riegle's denial of a previous request for hearings over matters which are clearly under the jurisdiction of the Banking Committee.

The rules permit a minimum of three committee members to request a special meeting of the committee. If the chairman declines within three calendar days to schedule the meeting, then a majority of the committee may override the chairman and schedule the meeting.

"The clock is ticking. The statute of limitations is running out," D'Amato stated. "Justice may be denied and the American taxpayer left holding the bag."

In earlier correspondence, D'Amato asked both Attorney General Janet Reno and RTC Acting President Roger Altman to seek voluntary agreements to waive the statute of limitations with various participants in the Whitewater matter--including the President and Hillary Rodham Clinton.

A copy of the letter to Chairman Riegle is attached.

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103D CONGRESS
2D SESSION

S. RES. ____

IN THE SENATE OF THE UNITED STATES

Mr. D'AMATO (for himself ____________ ____________ ____________ ____________ ____________ ____________ ____________ ____________ ____________ ____________ ____________) submitted the following resolution; which was ____________

RESOLUTION

Establishing a special subcommittee within the Committee on Banking, Housing, and Urban Affairs to conduct an investigation into allegations concerning the Whitewater Development Corporation, Madison Guaranty Savings and Loan Association, and Capital Management Services, Inc., and other related matters.

Resolved,

ESTABLISHMENT OF THE SPECIAL SUBCOMMITTEE

SECTION 1. (a) There is established a special subcommittee within the Committee on Banking, Housing, and Urban Affairs to be known as the Special Subcommittee on Certain Allegations Concerning Whitewater Development Corporation, Madison Guaranty Savings and Loan Association, and Capital Management Services, Inc., and Related Issues (hereafter in this resolution referred to as the "special subcommittee").

(b) The purpose of the special subcommittee is—

(1) to conduct an investigation into, and study of, all matters which have any tendency to reveal the full facts about—

(A) the operations, solvency, and regulation of Madison Guaranty Savings and Loan Association, including the alleged use of federally insured funds as campaign contributions;

(B) the relationship among Madison Guaranty Savings and Loan Association, other federally insured institutions, and Whitewater Development Corporation;

(C) the management and business activities of Whitewater Development Corporation and its shareholders, including issues of personal, corporate, and partnership tax liability;

(D) the policies of the Resolution Trust Corporation, Federal banking agencies, and other Federal regulatory agencies regarding legal representation of the agencies, including conflicts of interest and cost controls;

(E) the independence of the Resolution Trust Corporation, Federal banking agencies, and other Federal regulatory agencies, including any improper contacts among officials of the White House, the Department of the Treasury, the Resolution Trust Corporation, the Office of Thrift Supervision, and any other Federal agency;

(F) the Resolution Trust Corporation's internal handling of the criminal referrals concerning Madison Guaranty Savings and Loan Association;

(G) the pursuit by the Resolution Trust Corporation of civil causes of action against potentially liable parties associated with Madison Guaranty Savings and Loan Association;

(H) the pursuit by the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, and the Federal Savings and Loan Insurance Corporation of administrative and civil causes of action against potentially liable parties associated with Madison Guaranty Savings and Loan Association;

(I) the Department of Justice's handling of the Resolution Trust Corporation's criminal referrals relating to Madison Guaranty Savings and Loan Association;

(J) the delayed recusal of the United States Attorney for the Eastern District of Arkansas from the investigation or prosecution of David Hale, Capital Management Services, Inc., and Whitewater Development Corporation;

(K) the sources of funding and the lending practices of Capital Management Services, Inc., and its supervision and regulation by the Small Business Administration, including loans to Susan McDougal and the alleged diversion of funds to Whitewater Development Corporation;

(L) the Park Police investigation into the death of White House Deputy counsel Vincent Foster;

(M) the operations and underwriting activities of the Arkansas Development Finance Authority;

(N) the circumstances surrounding and the propriety of the commodities-futures trading activities of Hillary Rodham Clinton;

(O) the investment activities of Value Partners I, including the compliance of these activities with Federal laws governing conflicts of interest;

(P) any other issues related to the matters referred to in subparagraphs (A) through (O); and

(Q) any issues developed during, or arising out of, the hearings conducted by the special subcommittee; and

(2)(A) to make such findings of fact as are warranted and appropriate;

(B) to make such recommendations, including recommendations for new legislation and amendments to existing laws and any administrative or other actions, as the special subcommittee may determine to be necessary or desirable; and

(C) to fulfill the Constitutional oversight and informing function of the Congress with respect to the matters described in this section.

(c) For purposes of this section, the term "Madison Guaranty Savings and Loan Association" includes any subsidiary company, affiliated company, or business owned or controlled, in whole or in part, by Madison Guaranty Savings and Loan Association, its officers, directors, or principal shareholders.

MEMBERSHIP AND ORGANIZATION OF THE SPECIAL SUBCOMMITTEE

SEC. 2. (a)(1) The special subcommittee shall consist of—

(A) 5 members of the Committee on Banking, Housing, and Urban Affairs appointed by the chairman;

(B) 5 members of the Committee on Banking, Housing, and Urban Affairs appointed by the ranking member;

(C) 3 members of the Senate appointed by the President pro tempore of the Senate from the majority party of the Senate upon the recommendation of the Majority Leader of the Senate; and

(D) 3 members of the Senate appointed by the President pro tempore of the Senate from the minority party of the Senate upon the recommendation of the Minority Leader of the Senate.

(2) Vacancies in the membership of the special subcommittee shall not affect the authority of the remaining members to execute the functions of the special sub-

committee and shall be filled in the same manner as original appointments to it are made.

(3) For the purpose of paragraph 4 of rule XXV of the Standing Rules of the Senate, service of a Senator as a member of the special subcommittee shall not be taken into account.

(b)(1) The chairman and ranking member of the Committee on Banking, Housing, and Urban Affairs shall be cochairmen of the special subcommittee.

(2) A majority of the members of the special subcommittee shall constitute a quorum for reporting a matter or recommendation to the Senate, except that a quorum shall not be necessary for the purpose of taking testimony before the special subcommittee or for conducting the other business of the special subcommittee.

(c)(1) The special subcommittee shall promptly adopt appropriate rules and procedures consistent with this resolution.

(2) The rules and procedures of the special subcommittee shall—

(A) govern the proceedings of the special subcommittee; and

(B) consistent with section 6 of this resolution—

(i) provide for the security of the records of the special subcommittee; and

(ii) prevent the unauthorized disclosure of information and materials obtained by the special subcommittee in the course of its investigation and study.

STAFF OF THE SPECIAL SUBCOMMITTEE

SEC. 3. (a)(1) Committee staff from committees having jurisdiction over matters described in section 1(b) shall be detailed to the special subcommittee, subject to availability, as requested by the cochairmen.

(2) In addition to staff detailed pursuant to paragraph (1) and to assist the special subcommittee in its investigation and study, the cochairmen, after approval of the special subcommittee, may appoint special subcommittee staff.

(3) All staff detailed pursuant to paragraph (1) or appointed pursuant to paragraph (2) shall work for the special subcommittee as a whole, shall report to the two cochairmen and, except as otherwise provided by the special subcommittee, shall be under the direction of the cochairmen.

(b) To assist the special subcommittee in its investigation and study, the Senate Legal Counsel and Deputy Senate Legal Counsel shall work with and under the jurisdiction and authority of the special subcommittee.

(c) The Majority and Minority Leaders of the Senate may each designate one staff person to serve on the staff of the special subcommittee to serve as their liaison to the special subcommittee.

(d) The Comptroller General of the United States is requested to provide from the General Accounting Office whatever personnel, investigatory, material, or other appropriate assistance may be required by the special subcommittee.

PUBLIC ACTIVITIES OF THE SPECIAL SUBCOMMITTEE.

SEC. 4. (a) Consistent with the rights of persons subject to investigation and inquiry, the special subcommittee shall make every effort to fulfill the right of the public and the Congress to know the essential facts and implications of the activities of officials of the United States Government and other persons and entities with respect to the matters under investigation and study as described in section 1.

(b) In furtherance of the public's and Congress' right to know, the special subcommittee—

(1) shall hold, as either cochairman considers appropriate, open hearings on specific subjects, subject to consultation and coordination within the independent counsel appointed pursuant to chapter 28, part 600, of the Code of Federal Regulations (referred to as the "independent counsel");

(2) may make interim reports to the Senate as it considers appropriate; and

(3) shall make a final comprehensive public report to the Senate which contains a description of all relevant factual determinations consistent with subsection (a) of this section and section 1(b)(2) and which contains recommendations for new legislation, if necessary.

POWERS OF THE SPECIAL SUBCOMMITTEE

SEC. 5. (a) The special subcommittee shall do everything necessary and appropriate under the laws and Constitution of the United States to make the investigation and study specified in section 1.

(b) The special subcommittee is authorized to issue subpoenas for obtaining testimony and for the production of documentary or physical evidence. A subpoena may be authorized and issued by the special subcommittee, acting through either cochairman or any other member designated by either cochairman, and may be served by any person designated by either cochairman or other member anywhere within or without the borders of the United States to the full extent permitted by law. Either cochairman of the special subcommittee, or any other member thereof, is authorized to administer oaths to any witnesses appearing before the subcommittee.

(c) The special subcommittee is authorized to do the following:

(1) To employ and fix the compensation of such clerical, investigatory, legal, technical, and other assistants as the special subcommittee considers necessary or appropriate.

(2) To sit and act at any time or place during sessions, recesses, and adjournment periods of the Senate.

(3) To hold hearings, take testimony under oath, and to receive documentary or physical evidence relating to the matters and questions it is authorized to investigate or study.

(4) To request a grant of immunity under section 6005 of title 18, United States Code, after consultation with the independent counsel.

(5) To require by subpoena or order the attendance, as witnesses before the special subcommittee or at depositions, of any person either cochairman determines may have knowledge or information concerning any of the matters the special subcommittee is authorized to investigate and study.

(6) To take depositions and other testimony under oath anywhere within the United States, to issue orders by either cochairman or any other mem-

ber designated by either cochairman which require witnesses to answer written interrogatories under oath, and to make application for issuance of letters rogatory.

(7) To issue commissions and to notice depositions for staff members to examine witnesses and to receive evidence under oath administered by an individual authorized by local law to administer oaths. The special subcommittee, acting through either cochairman, may authorize and issue, and may delegate to designated staff members the power to authorize and issue, commissions and deposition notices.

(8) To require by subpoena or order—

(A) any department, agency, entity, officer, or employee of the United States Government,

(B) any person or entity purporting to act under color or authority of State or local law, or

(C) any private person, firm, corporation, partnership, or other organization,

to produce for its consideration or for use as evidence in the investigation or study of the special subcommittee any book, check, canceled check, correspondence, communication, document, financial record, paper, physical evidence, photograph, record, recording, tape, or any other material relating to any of the matters or questions such subcommittee is authorized to investigate and study which they or any of them may have in their custody or under their control.

(9) To make to the Senate any recommendations, including recommendations for criminal or civil enforcement, which the special subcommittee may consider appropriate with respect to—

(A) the willful failure or refusal of any person to appear before it, or at a deposition, or to answer interrogatories, in obedience to a subpoena or order;

(B) the willful failure or refusal of any person to answer questions or give testimony during his appearance as a witness before such subcommittee, or at a deposition, or in response to interrogatories; or

(C) the willful failure or refusal of—

(i) any officer or employee of the United States Government,

(ii) any person or entity purporting to act under color or authority of State or local law, or

(iii) any private person, partnership, firm, corporation, or organization,

to produce before the subcommittee, or at a deposition, or at any time or place designated by the subcommittee, any book, check, canceled check, correspondence, communication, document, financial record, paper, physical evidence, photograph, record, recording, tape, or any other material in obedience to any subpoena or order.

(10) To procure the temporary or intermittent services of individual consultants, or organizations thereof.

(11) To use on a reimbursable basis, with the prior consent of the Government department or agency concerned, the services of personnel of such department or agency.

(12) To use, with the prior consent of the chairman or ranking member of any other Senate committee or the chairman or ranking member of any subcommittee of any committee of the Senate, the facilities or services of the appropriate members of the staff of such other Senate committee whenever the special subcommittee or either cochairman consider that such action is necessary or appropriate

to enable the special subcommittee to make the investigation and study provided for in this resolution.

(13) To have access through the agency of any members of the special subcommittee, staff director, chief counsel, or any of its investigatory assistants designated by either cochairman, to any data, evidence, information, report, analysis, document, or paper—

(A) which relates to any of the matters or questions which the special subcommittee is authorized to investigate or study;

(B) which is in the possession, custody, or under the control of any department, agency, entity, officer, or employee of the United States Government, including those which have the power under the laws of the United States to investigate any alleged criminal activities or to prosecute persons charged with crimes against the United States without regard to the jurisdiction or authority of any other Senate committee; and

(C) which will aid the special subcommittee to prepare for or conduct the investigation and study authorized and directed by this resolution.

(14) To report violations of any law to the appropriate Federal, State, or local authorities.

(15) To expend, to the extent the special subcommittee determines necessary and appropriate, any money made available to such subcommittee by the Senate to make the investigation, study, and reports authorized by this resolution.

(16) Under sections 6103(f)(3) and 6104(a)(2) of the Internal Revenue Code of 1986, to inspect and receive for the fiscal years 1977–1992 any tax return, return information, or other tax-related material, held by the Secretary of the Treasury, related to individuals and entities named by the special subcommittee as possible participants, beneficiaries, or intermediaries in the transactions under investigation.

(d) The level of compensation payable to any employee of the special subcommittee shall not be subject to any limitation on compensation otherwise applicable to an employee of the Senate. No employee of the special subcommittee may receive pay at a rate of pay in excess of the rate of pay payable for a position at level III of the Executive Schedule under section 5314 of title 5, United States Code.

PROTECTION OF CONFIDENTIAL INFORMATION

SEC. 6. (a) All staff members and consultants shall, as a condition of employment, agree in writing to abide by the conditions of an appropriate nondisclosure agreement promulgated by the special subcommittee.

(b) The case of any Senator who violates the security procedures of the special subcommittee may be referred to the Select Committee on Ethics of the Senate for the imposition of sanctions in accordance with the rules of the Senate. Any staff member or consultant who violates the security procedures of the special subcommittee shall immediately be subject to removal from office or employment with the special subcommittee or shall be subject to such other sanction as may be provided in the rules of the special subcommittee.

(c) Upon the termination of the special subcommittee pursuant to section 9 of this resolution, all records, files, documents, and other materials in the possession, custody, or control of the special subcommittee, under appropriate conditions established by such subcommittee, shall be transferred to the National Archives.

RELATION TO OTHER INVESTIGATIONS

SEC. 7. (a) In order to—

(1) expedite the thorough conduct of the investigation and study authorized by this resolution;

(2) promote efficiency among all the various investigations underway in all branches of the United States Government; and

(3) engender a high degree of confidence on the part of the public regarding the conduct of such investigation,

the special subcommittee is encouraged—

(A) to coordinate, to the extent practicable, its activities with the investigation of the independent counsel;

(B) to seek the full cooperation of all relevant investigatory bodies; and

(C) to seek access to all information which is acquired and developed by such bodies.

(b) The cochairmen shall meet with the independent counsel to obtain relevant information concerning the status of the independent counsel's investigation to assist in establishing a hearing schedule for the special subcommittee.

(c) The Senate requests that the independent counsel make available to the special subcommittee, as expeditiously as possible, all documents and information which may assist the special subcommittee in its investigation and study.

SALARIES AND EXPENSES

SEC. 8. Such sums as are necessary shall be available from the contingent fund of the Senate out of the Account for Expenses for Inquiries and Investigations for payment of salaries and other expenses of the special subcommittee under this resolution, which shall include sums which shall be available for the procurement of the services of individual consultants or organizations thereof, in accordance with section 5(c)(9). Payment of expenses shall be disbursed upon vouchers approved by either cochairman of the special subcommittee, except that vouchers shall not be required for the disbursement of salaries paid at an annual rate.

REPORTS; TERMINATION

SEC. 9. (a)(1) The special subcommittee shall make a final public report to the Senate of the results of the investigation and study conducted by such subcommittee pursuant to this resolution, together with its findings and any recommendations at the earliest practicable date.

(2) The final report of the special subcommittee may be accompanied by whatever confidential annexes are necessary to protect confidential information.

(b) After submission of its final report, the special subcommittee shall conclude its business and close out its affairs as expeditiously as practicable.

SUBCOMMITTEE JURISDICTION AND RULE XXV

SEC. 10. The jurisdiction of the special subcommittee is granted pursuant to this resolution notwithstanding the provisions of paragraph 1 of rule XXV of the Standing Rules of the Senate relating to the jurisdiction of the standing committees of the Senate.

RT-13327
cc: Mr. Altman
Standard Distribution
Mr. Adair
Mr. Kusinski
Mr. Foreman
Mr. Schmalzbach
Mr. Rosholt
✓Mr. Binkley

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

May 4, 1994

Ms. Jenny Mummert
Administrative Aide
Subcommittee on Treasury -
Postal Service and General Oversight
Committee on Appropriations
House of Representatives
Washington, D.C. 20515

Dear Ms. Mummert:

On March 8, 1994, Secretary Bentsen appeared before the Subcommittee at a hearing on the Department of the Treasury's Fiscal Year 1995 budget request. As a result of that hearing, Representative Wolf submitted written questions to be answered for the record of the hearing.

As a partial response to question three from Representative Wolf and as requested by the Department of the Treasury, the Resolution Trust Corporation is pleased to release the enclosed memorandum dated February 18, 1994, from our Designated Agency Ethics Official, Mr. Arthur J. Kusinski, to former RTC Interim CEO Roger C. Altman regarding Madison Guaranty matters.

We hope this information is of assistance to you. If you have any questions, please let me know.

Sincerely,

Peter E. Knight
Director
Office of Governmental Relations
(202) 416-7314

Enclosure

cc: Honorable Roger C. Altman

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

February 18, 1994

MEMORANDUM TO: Roger G. Altman
Interim Chief Executive Officer

FROM: Arthur J. Kusinski
Ethics Officer Arthur J. Kusinski
and
Designated Agency Ethics Official

SUBJECT: RTC Madison Guaranty Matters

SUMMARY:

You have sought advice from your RTC ethics counselor as to whether your longstanding personal relationship with the President gives rise to a legal obligation to recuse yourself from matters that may come before the RTC that may affect financial interests of the President or his family. I have carefully considered your inquiry, and conclude that the decision whether to participate in such matters is not mandated by ethics statues or regulations. Thus, you have the discretion to participate or not, as you determine to be appropriate. I note, however, that it is not necessary for you to decide whether to participate in any particular matter until such time as the matter comes before you.

DISCUSSION:

The only ethics statute or regulation which is relevant to your request for advice is 5 CFR 2635.502 ("section 502"), which is entitled "Personal and Business Relationships". That provision encourages an official who has a relationship with a person who is a party to a Government matter in which the official is called upon to act, and is concerned that the relationship would raise an issue of impartiality, to contact the agency's ethics officials. You have done so.

Ethics officials then must determine whether your relationship with the President is a "covered relationship" as that term is defined by 5 CFR 2635.502(b)(1). Officials have a "covered relationship" with: (1) a "person" with whom the official has or seeks a business, contractual or other financial relationship; (2) a member of their household or a relative with whom they have a close personal relationship; (3) a "person" with whom certain of the

801 17th Street, N.W. Washington, D.C. 20434

official's relatives has or seeks employment or similar relationships; (4) a "person" for whom the official has served as an employee, attorney or in a similar capacity within the last year; and (5) an organization other than a political party in which the official is an active participant such as a chairman of one of the organization's committees. For purposes of these regulations, the term "person" does not include the Federal Government and/or officials of the Federal Government acting in their official capacities. 5 CFR 2635.102(k). You clearly have none of these relationships with the President, and therefore you are not in a "covered relationship" with him. As the section 502 regulation operates, only "covered relationships" standing alone raise questions of appearances of loss of impartiality as a statutory or regulatory matter.

In considering your request for advice, I am aware that your only relationship with the President is one that would be fairly characterized as a longstanding personal friendship. However, you and the President do not now and have not in the past participated together in business or financial transactions[1]. While a personal relationship such as yours with the President is a factor to be considered (along with others) in deciding whether the circumstances raise a question as to your impartiality in a matter that may affect the President's interests, standing alone it is not determinative. In its Preamble to the publication of the final Executive branch standards of conduct regulations, OGE specifically considered whether a "close personal friendship," standing alone, should be considered a "covered relationship," and decided that it should not. 57 FR 35026 (1993).

I have consulted with the Office of Government Ethics concerning this issue. OGE believes that your decision, as to whether to participate in an RTC matter that may affect a financial interest of the President, is not a matter that is mandated by ethics statutes and regulations. OGE also believes that the ethics advice I provided to you in these circumstances is within the discretion

of the ethics official of the affected agency; and that the decision whether to participate in RTC matters that may involve the interests of the President is within your discretion. I have also consulted with the Designated Agency Ethics Official at the Department of the Treasury who concurs with me in this analysis.

---

[1] Title 18 U.S. Code, section 208 prevents an official from participating for the Government in a matter affecting a financial interest of the official or certain other persons and organizations. You have neither a personal financial interest in the matters before the RTC nor a relationship with the President (who may have such an interest) of the kind that is relevant for purposes of 18 U.S.C. 208. Section 208 would impute to you the financial interest of the President only if he were your general partner or a person with whom you were negotiating or had an arrangement for prospective employment. Thus, that provision does not create any bar to your participation in the RTC's decisions concerning those matters.

In summary, it is my opinion that there is no legal reason to preclude you from acting on such matters. Regardless of whether you decide to recuse yourself, there will be no legal objection to that decision.

RECOMMENDATION:

In deciding whether to recuse yourself, I recommend that you consider certain factors in making your decision. Certainly, you should take into consideration your longstanding personal relationship with the President. You should also consider the nature and importance of your role as the RTC's CEO in the Madison matter; the sensitivity of this matter; the difficulty in assigning this matter to another individual at the RTC; the likelihood that a reasonable person with full knowledge of the facts would question your impartiality; and the effect that this matter may have upon the President's financial interests. This listing is not exclusive, and you may have other factors which you may want to consider as well. That is within your discretion. In considering these factors, I of course stand ready to advise you if you should so desire.

Finally, the regulations do not require government officials to recuse themselves from actions which are not specifically before them. Therefore, you may wish to defer a decision on your recusal until such time as a particular aspect of the Madison Guaranty matter is presented to you for consideration or decision.[2]

---

[2] I understand that the statute of limitations may be extended.

BACKGROUND ON QUESTIONS COMING FROM COMMITTEE MEMBERS RELATING TO MADISON

1. **Why is the RTC refusing to provide information about Madison and Whitewater to this Committee?**

   At the present time the RTC is cooperating with the investigations by individual members (Rep. Leach/Sen. D'Amato) to the fullest extent possible under the law.

2. **Haven't you refused to provide specific information to Members of the Committee (Rep. Leach/Sen. D'Amato) and their staffs which they have advised you is extremely important to their carrying out of their duties?**

   Absent a request from the Committee, the RTC is limited with respect to three general areas:

   (a) Information regarding the personal and corporate financial records in it possession;

   (b) Information relating to criminal investigations; and

   (c) Information which is privileged;

   (d) Material relating to possible civil litigation.

3. **As a Committee Member (Minority Member) and as a participant in this hearing, I am formally requesting that you supply the material previously requested (by Rep. Leach/Sen. D'Amato).**

   In order to change this approach, the RTC needs clarification from the Chair as to whether a request during the hearing from an individual member constitutes a formal request by the Committee as part of this hearing on the Thrift Depositor Protection Oversight Board.

4. **As the Chairman of this Committee (Chairman Riegle/Chairman Gonzales), I am requesting that you provide the information requested to the majority and minority staffs of this Committee.**

   The RTC, in addition to its obligations to comply with law is deeply concerned about the providing of information which could have a negative impact on its investigation or litigation of any matter. Furthermore, the Justice Department has already requested that with respect to Madison, we make no information available about criminal referrals without its consent.

5. **I insist.**

Alternative A:
May I reiterate our concerns about possible negative affects on our investigation. However, since the Committee is making a formal request, I request on behalf of the RTC that appropriate safeguards be implemented after consultation with the staff of the Committee to protect the confidentiality of information and to preserve the privileged nature of any information disclosed. Furthermore, the RTC will consult with the independent counsel to advise the Committee of its position on the impact on the independent counsel's investigation before providing any information.

Alternative B:
Mr. Chairman, the RTC will respond as to its position on this request expeditiously (Executive privilege provision of information with safeguards) after consultation with independent counsel.

Background:

- The RTC has previously provided privileged information to Congressional Committees with safeguards such as a promise of confidentiality or under a threat of subpoena which protects the agency from a claim that its privileges have been waived by disclosure to Congress. For example, the RTC has disclosed:
  - information regarding Southwest Savings litigation to Senate Banking under a promise of confidentiality;
  - information regarding Homefed to House Banking under threat of subpoena; and
  - certain authority to sue memoranda to the House Subcommittee on Civil Service under a promise of confidentiality by the Chairman of the Subcommittee, after the original request by Congresswoman Schroeder for such information was declined.
- In the absence of such safeguards the RTC would have to consider all its options in order to avoid jeopardizing its statutory obligations.

→ Any Q related

→ Because the ~~[illegible]~~ matter is ~~[illegible]~~ pending investigation it ~~[illegible]~~
would be inappropriate for me to respond
comment ~~[illegible]~~, so as not to
interfere with or compromise their investigation.

ALT ② →

You are not GOING to answer any Q re Madison

- unfortunately, ~~[illegible]~~ to answer these and related Qs
on-going investig could detrimentally affect
their efforts + commitment at this time
we can not respond.

ALT: As I have previously indicated
because of the ongoing investig of the
RTC + others it would not be
appropriate to [redacted] answer questions.
No matter what may be the subject
of the investigation

Becau

RESOLUTION TRUST CORPORATION
OFFICE OF GOVERNMENTAL RELATIONS
CORRESPONDENCE REFERRAL

Document: 13076 Document Date: 94/03/23 Due Date: 94/04/07
Input Date: 94/03/24

NAME: Leach, Honorable James A. H. B.
Ranking Member
Committee on Banking, Finance and
ADDRESS: Urban Affairs, House of Reps.
Washington DC 20515

Copies To:
Standard Dist.
MR. RYAN OGR STAFF
MS. KRUSE (Colli-Shaw)
MS. HINTON Birkley
MS. KAUPER

Synopsis: ACCESS TO ALL RTC [DOCUMENTS] RELATED TO [MADISON] [GUARANTY] S&LA, MCCRORY, AR (RESOLVED), AND [WHITEWATER], TO PREPARE FOR [HEARINGS]. [E-MAIL], [MEETINGS], [REPORTS], MEMOS [NAMES], FIELD. [IMPORTANT]

Action: Prepare for Deputy CEO John E. Ryan sig.

OLA Contact: Carol O'Brien (202) 416-7314

INSTRUCTIONS

Author of the draft response and person(s) reviewing response should sign this routing sheet. Please forward draft response by DUE DATE with this completed form to OLA (Renee Kelly-Room 1062A-801 17th Street) with WordPerfect disk or by E-mail (Renee Kelly@ OLA@ RTCDC). Routing sheet may be faxed to (202)416-4413.

* This form is necessary for review purposes *

Assigned To: Date:
OLA-LEG Ellen B. Kulka - Legal 94/03/24

AUTHOR: ____________________ PHONE: ____________

REVIEWED BY:	DATE IN	DATE OUT	REVIEWED BY:	DATE IN	DATE OUT

13076

CONGRESS OF THE UNITED STATES

RECEIVED
MAR 23 1994
OFFICE OF GOVERNMENTAL RELATIONS
RTC

FACSIMILE TRANSMISSION

DATE: 3/23/94

TO: John E. Ryan

FROM: Cong. James A. Leach

MINORITY STAFF
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
B-301-C RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, D. C. 20515 202/225-7502

(FAX: 202/226-4301)

NUMBER OF PAGES TO FOLLOW THIS HEADER: 3

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U.S. HOUSE OF REPRESENTATIVES

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2129 RAYBURN HOUSE OFFICE BUILDING
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BERNARD SANDERS, VERMONT

(202) 225-4247

March 23, 1994

RECEIVED
MAR 23 1994
OFFICE OF GOVERNMENTAL RELATIONS
RTC

John E. Ryan
Deputy Chief Executive Officer
Resolution Trust Corporation
801 - 17th Street, N.W.
Washington, D.C. 20434

Dear Mr. Ryan:

As you know, the House, by an overwhelming vote of 408 to 15, passed H. Res. 394, a sense of the House of Representatives reaffirming Congress' "Constitutional obligation to conduct oversight of matters relating to the operations of the government, including matters related to any governmental investigations which may from time to time be undertaken" and establishing procedures "for appropriate Congressional oversight, including hearings on all matters related to "Madison Guaranty Savings and Loan Association ('MGS&L'), Whitewater Development Corporation and Capital Management Services Inc. ('CMS')."

In addition to the passage of H. Res. 394, I would draw your attention to the following colloquy between House Majority Leader Gephardt and Republican Leader Michel:

> Mr. MICHEL. Mr. Speaker, if I might at this time ask the distinguished Majority leader several questions to be perfectly clear here, is the Democratic leadership committed to holding the previous RTC oversight hearing that is mandated by law?
>
> Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?
>
> Mr. MICHEL. I yield to the gentleman from Missouri.
>
> Mr. GEPHARDT. Mr. Speaker, the answer is yes.
>
> Mr. MICHEL. Do we have any idea of when that might be scheduled?
>
> Mr. GEPHARDT. I would say to the gentleman that it would be scheduled as soon as practicable, in consultation with all of the people on the committee, and the chairman of the committee, and the ranking member and the Members on

> both sides.
>
> Mr. MICHEL. And it is my understanding from previous conversations that we have had that the minority will be allowed a day of witnesses as provided under rule XI, is that correct?
>
> Mr. GEPHARDT. The gentleman is correct.

(Cong. Rec. H1810, March 22, 1994)

Both H. Res. 394 and the RTC Oversight hearings mandated by Section 21A of the Federal Home Loan Bank Act (12 U.S.C. §1441a) involve Congressional oversight under the jurisdiction of the House Banking Committee authorized by Rule X of the House Rules. As ranking Member of the House Banking Committee, I would respectfully request that the RTC provide the Committee with access to all documents related to Madison and its subsidiaries in order to prepare for the upcoming hearings on the Madison/Whitewater circumstance. Members of the Committee will need access to this material to prepare for the upcoming hearings and to perform their ongoing oversight responsibilities.

The documents requested would include, but not be limited to, administrative files, examination reports, interoffice memorandum, notes and minutes of meetings (including telephonic meetings), correspondence, electronic mail and agreements the RTC entered into with private sector contractors during the resolution of Madison. In addition to documents in possession at RTC-Washington, I request access to all documents related to Madison held at RTC field offices. Furthermore, please provide the names and titles of all RTC employees involved with the supervision of Madison.

It should be noted that inquiry into Madison, as well as any other specific institution, is germane to the RTC oversight hearings. Concerning the provisions of FIRREA requiring semi-annual RTC oversight hearings, Senate Banking Committee Chairman Riegle, the floor manager of FIRREA, has stated:

> So we have had, now, over the years since 1989, a very long series of regular oversight hearings where we call in the officials responsible for implementing that law to find out exactly how it is working and if there is a need to change any particular part of it. Is it working the way it was designed to work? Have we corrected all the abuses? We were so concerned about that issue that, in fact, we built into that 1989 law a requirement that there has to be a hearing here in Congress every 6 months on how that cleanup effort is doing and how that law is

> being implemented. Within the text of that part of the law we went so far as to say that any institutions that failed in that time period, in the mid-1980's, that if any Senator on the committee wanted to come in and ask questions about that particular institution, that they had a right in law to do so. We did not foresee the Madison case at that time, but it applies precisely to the Madison case and every other case out of that time period. (Cong. Rec. S3153, March 17, 1994).

Moreover, the existence of a Special Counsel appointed in the Madison case cannot be used as a rationale to avoid providing oversight information to Congress. In a meeting on March 17, 1994, the Minority received assurances from Special Counsel Fiske that he did not object to the disclosure of copies of documents to Congress, other than White House documents.

Please have your staff contact Joe Seidel at (202)226-3241 or Mike McGarry at (202)225-2258 to discuss arrangements to review the aforementioned documents as soon as possible. I would appreciate it if you would confirm by letter on or before March 25, 1994 your intention to comply, or not comply with this request for information.

I appreciate your prompt assistance and look forward to your cooperation in this matter.

Sincerely,

James A. Leach
James A. Leach
Ranking Member

```
To:             John E. Ryan@CEO@RTCDC
                Ellen B. Kulka@Legal-sc@RTCDC
                Stephen J. Katsanos@Comm@RTCDC
                Peter E. Knight@OGR@RTCDC
                William C. Collishaw@Legal-ra@RTCDC
                James M. Barker@Legal-sc@RTCDC
                Mark P. Hileman@Legal-lit@RTCDC
Cc:             Thomas L. Hindes@Legal-pls@RTCDC
Bcc:
From:           Mark Gabrellian@Legal-pls@RTCDC
Subject:        Madison Guaranty Savings & Loan Assoc.
Date:           Friday, March 11, 1994 13:59:50 EST
Attach:
Certify:        N
Forwarded by:   William C. Collishaw@Legal-ra@RTCDC

  ------------------------------------------------------------------------------

Forwarded to:      John C. Binkley@Legal-ra@RTCDC
         cc:       Krista D. Kauper@Legal-ra@RTCDC
Forwarded date:    Friday, March 11, 1994 17:59:54 EST
Comments by:       William C. Collishaw@Legal-ra@RTCDC

    ------------------------- [Original Message] -------------------------
```

The RTC has agreed to produce to the Independent Counsel investigating potential federal criminal law violations arising out of the operations and subsequent failure of Madison Guaranty Savings and Loan Association and its related entities ("Madison Guaranty") the same documents identified in the federal grand jury subpeona served upon, among others, the Deputy Secretary of the Treasury.

In order to comply with the Independent Counsel's request, it is important that you and your staffs take all appropriate steps to search for, compile and forward to my attention any and all documents (whether typed, hand-written or electronically generated) that constitute the following:

> Any and all documents and/or communications referring or relating to any criminal referrals made by the Resolution Trust Corporation about or regarding Madison Guaranty Savings & Loan, its subsidiaries or affiliates.

Unfortunately, time is of the essence. Accordingly, I would ask that this request be forwarded to your staffs immediately and that you endeavor to get me whatever such documents may exist and can readily be compiled by Tuesday, March 14, 1994. Obviously, however, this creates a tremendous burden on very short notice so that, if it is practical only to provide some portion of what may be in you and your staffs' possession by that date with an indication that more will follow, please contact me so that we may advise the Independent Counsel and proceed accordingly. In fact, we have already apprised the Independent Counsel that, because of the breadth of this request, the search for all responsive documents will likely take some time.

In addition, we will need to advise the Independent Counsel of the due diligence procedures employed in responding to the production request. Therefore, I would ask that you document the instructions transmitted to your staffs and the process and progress of the search and transmit the same to me.

I thank you and your staffs for their cooperation. Please feel free to contact me should you have any questions.

Statement by

Representative James A. Leach

before the

U.S. House of Representatives

March 24, 1994

Mr. Speaker, I rise to a point of personal privilege of the House.

In rising to this point of privilege, I wish to express concern about the breakdown of comity that has occurred on a personal and procedural level in the House Banking Committee.

On a personal level unfortunate adjectives have been used; on a procedural level unprecedented tactics have been employed.

I don't wish to dwell on the personal, except to stress my high regard for the Chairman of the Banking Committee and to suggest that, as the theologian Reinhold Niebuhr once observed, the temper and integrity of the political debate is more important in our kind of democracy than the outcome of any issue.

Motivational aspersions are no substitute for full disclosure; indignation no substitute for pursuit of truth.

Members of the Majority may be speaking the truth when they indicate they have no evidence of a link between the failure of an Arkansas S&L and Whitewater and that they know of no improprieties at issue. But it should be understood that not speaking an untruth is not the same as describing a truthful situation, particularly if there has been no serious effort to pursue the truth.

Constitutionally it is the duty of Congress to oversee breaches of law or public ethics in the Executive Branch. During the 12 years of the so-called "divided government" of the Reagan/Bush era, the Legislative Branch took its Constitutionally-mandated oversight function seriously, as witnessed by the expansion in the size of its staff and the number of investigations undertaken.

Now both the Executive and the Legislative Branches of government are controlled by the same political party. The oversight mandate thus falls disproportionately upon the Ranking Members of the respective Committees for those areas of the Executive Branch over which they have jurisdiction. Not to assume leadership in performing the oversight function with regard to the way in which the financial institutions of this country are managed and regulated

would be to violate my oath to "support and defend the Constitution of the United States . . .and . . .well and faithfully discharge the duties of the office."

If the majority party refuses to uphold its responsibilities because of political embarrassment to its party's top elected official, the minority party is left with the choice either of joining in a complicity of silence or pursuing investigations that run the danger of being partisan.

In this context, I would simply emphasize that I raised the Whitewater issue with great reluctance, realizing the import as well as the power of the Presidency. I fully understand the political and personal liabilities involved. Nonetheless, I feel it would be inconsistent, indeed, hypocritical, to my own values, if I refused to pursue a line of inquiry potentially embarrassing to the President of a country which from its inception was intended to be hallmarked by law and its applicability to all citizens. It is, after all, the establishment of a government of laws, not men, that defines the uniqueness of the American experiment with democracy.

Procedurally, it should be noted that the Minority is currently engaged in one of the most profound checks and balances philosophical engagements with the Executive branch in the modern history of the Congress. This engagement carries far greater implications than any judgement relating to a particular embarrassment of a particular public official at a particular time because at issue is precedent: whether in future circumstances the oversight capacities of Congress can be thwarted if the Majority party of Congress is the same as that in control of the Executive branch and chooses to refrain from its oversight obligations in order not to embarrass its party's standings.

It is possible that the Constitutional precedent for our checks and balances system surrounding the refusal of the Administration to cooperate with an oversight probe of the Executive branch which the majority party does not sanction may have more long-term negative consequences than any episodic embarrassment that might relate to this or any President's past. What is at issue is the definition of Congress as it applies to the Constitutionally granted oversight responsibilities of the legislature. In our checks and balances system, Congress was given oversight responsibilities, but this Administration is suggesting in response to minority requests for documentation from Executive agencies that only Chairmen speak for Congress. The minority in Congress, by this logic, has no power to advance or fulfill its Constitutional rights if the majority does not concur in request for information. If such precedent is allowed to stand, Congress's oversight capacities will for all practical purposes be hamstrung whenever the Executive and Legislative branches of government are controlled by the same party. Would our founding fathers have had this in mind? --

In this connection, on December 9, 1993, as Ranking Member of the Banking Committee, I wrote federal regulatory agencies to request certain documents of an oversight interest (Example, Tab A). In a follow-up letter I pointed out, as the courts have noted, "The Congress rarely acts as a body. Its manifold duties in the legislative, investigative, and oversight fields are almost invariably carried out through committees, committee chairmen, individual members, and staff personnel." Murphy v. Department of Army, 613 F .2d 1151, 1156 (1979). In addition, the court stated:

> "The Senate and the House are so organized that certain legislative and quasi-legislative activities may be accomplished only through committee action. In other respects, however, the legislature acts through its individual Members. All Members have a constitutionally recognized status entitling them to share in general congressional powers and responsibilities, many of them requiring access to executive information. It would be an inappropriate intrusion into the legislative sphere for the courts to decide without congressional direction that, for example, only the chairman of a committee shall be regarded as the official voice of the Congress for purposes of receiving such information, as distinguished from its ranking minority member, or other committee members, or other members of Congress. Each of them participates in the law-making process; each has a voice and a vote in that process; and each is entitled to request such information from the executive agencies as will enable him to carry out the responsibilities of a legislator."

Agency heads responded that a Ranking Member only has the authority of an individual Member of Congress and, therefore, may only obtain information that would be available to the public pursuant to the Freedom of Information Act. In addition, the Office of Thrift Supervision asserted that it differs "with the view that Rules X and XI of the House of Representatives grant to a ranking minority member (or any individual member) the same authority to request information that a committee chairman possesses." In short, the agencies contend that only Chairmen, not Ranking Members, speak for Congress.

Subsequently, on March 8, 1994, I wrote requesting information for the Banking Committee's upcoming RTC oversight hearing (Tab B). Agency heads again responded by holding to the position that only the Chairman of a Committee would be permitted access to agency documents.

In this dispute about who is entitled to speak for Congress in the context of Congress' right and obligation under Article I of the Constitution to conduct oversight of the Executive branch, the Chairman of the Banking Committee, in what may have been an effort to bolster the Executive's position, wrote agency heads on March 10, 1994, to suggest that they deny my document request and wrote

separately on March 14, 1994, to state that they need not answer questions concerning Madison Guaranty Savings and Loan at the scheduled hearings. (Tab C and D). The Chairman's letter contained an implicit and unprecedented philosophical assertion that not only does a Chairman have the exclusive right to obtain oversight documents from the Executive branch, but the right to deny such documentation to other Members and the right even to deny inquiries about issues clearly germane to the subject of hearings.

So that there is no misunderstanding, the RTC Oversight hearing was scheduled under requirement of law, Section 21A(k)(6) of the Federal Home Loan Bank Act (12 U.S.C. §1441a(k)(6)), and there is no provision in that law for exceptions to Congressional oversight that relate to a single state and its institutions. The U.S. Congress wrote a law applicable to all 50 states, not 49, and the oversight of our laws applies throughout this country. Just as in America no individual is above the law, no state is beyond its reach. Just as no individual is entitled to violate the law out of ignorance of it, no person, even the Chairman of a Congressional Committee, is entitled after the fact to be sole interpreter of a law's meaning or serve as a censor to another Member's inquiries. Indeed, no Member of Congress has the right or power to deny relevant information to another Member.

In addition to the Federal Home Loan Bank Act, the Committee's role in oversight is buttressed by the House Rules as modified under the Legislative Reorganization Act of 1970. I refer to paragraph 2 of House Rule X providing for the Committee's "General Oversight Responsibilities" which states:

> "(b)(1) Each standing committee ... shall review and study, on a continuing basis, the application, administration, execution, and effectiveness of those laws, or parts of laws, the subject matter of which is within the jurisdiction of that committee and the organization and operation of the Federal agencies and entities having responsibilities in or for the administration and execution thereof, in order to determine whether such laws and the programs thereunder are being implemented and carried out in accordance with the intent of the congress and whether such programs should be continued, curtailed, or eliminated."

Separate procedural rules may apply to an investigative hearing, but such rules do not apply in this case. The statutorily mandated RTC hearing is an oversight hearing in accordance with Rule X. Any reliance on investigative hearing procedures to deny information to Committee Members is misplaced. Any information requests or questions by Members related in any manner to RTC operations are authorized under the Committee's oversight authority. It is also

expected that in answering questions witnesses have the obligation either to assert appropriate privileges or fully respond with answers to the questions (See, 2 U.S.C. §192, Sinclair v. United States, 279 U.S. 263 (1929)) and such answers shall be truthful. (See, 18 U.S.C. §1001, U.S. v. Poindexter, 951 F.2d 369 (D.C. Cir. 1991)).

Moreover, the precedent of the Banking Committee is clear with respect to the relevance of specific questions on specific institutions. On numerous occasions at past RTC oversight hearings, questions related to individual institutions have been asked by Committee Members, including the Chairman, and answered by witnesses. In fact, the Committee's invitation letter of March 3, 1994, to Treasury Secretary Bentsen for purposes of the RTC oversight hearing, seeks testimony and documents related to a specific institution, Homefed Savings. Of relevance also is the following statement last week of the Chairman of the Senate Banking Committee:

> So we have had now over the years since 1989, a very long series of regular oversight hearings where we call in the officials responsible for implementing that law to find out exactly how it is working and if there is a need to change any particular part of it. Is it working the way it was designed to work? Have we corrected all the abuses? We were so concerned about that issue that, in fact, we built into that 1989 law a requirement that there has to be a hearing here in Congress every 6 months on how that cleanup effort is doing and how that law is being implemented. Within the text of that part of the law we went so far as to say that any institutions that failed in that time period, in the mid-1980's, that if any Senator on the committee wanted to come in and ask questions about that particular institution, that they had a right in law to do so. We did not foresee the Madison case at that time, but it applies precisely to the Madison case and every other case out of that time period. (Cong. Rec. S3153, March 17, 1997).

To the degree the Chairman's letters are open to an interpretation that would imply the possibility that they have been requested by the Administration to bolster its efforts to deny information to the Congress and thereby the public, at issue would be a collusive effort by the Majority party in the Congress to aid and abet the Executive branch in its concerted effort to deny disclosure of information related to legitimate Congressional oversight.

In this regard, a letter recently copied to Rep. William Clinger, Ranking Member of the Government Operations Committee, evidences a comparable approach in another committee of Congress (Tab E).

It is the Minority's position that Executive branch witnesses must address their obligations to respond to legitimate oversight

requests and legitimate inquiries on the subject of hearings as required by the law and the Constitution, not in conjunction with any arbitrary desire of a Chairman to deny discussion on a subject the Executive branch would rather not forthcomingly address. The Minority party, has a baseline assumption that officials of the U.S. government will comply with the law and, when appearing before a committee of Congress, abide by the Code of Government Ethics for Federal employees to "Uphold the Constitution, laws, and regulations of the United States and all governments therein and never be party to their evasion." (Pub. L. No. 96-303, July 3, 1980, 94 Stat. 855)

The constitutionally-derived obligation of oversight cannot be short-circuited at the whim of the Congressional majority. It is just as much the duty of the minority party, as the majority. Indeed, in real life circumstance as evidenced in this particular incident, oversight may in practice imply a greater obligation on the party out of power than the party in control of the Executive branch.

Hodding Carter, the distinguished journalist from Mississippi, recently noted that Southerners of virtually all philosophical stripes recognized a little or a lot of truth in certain Northern concerns about discrimination that existed in the South in the heyday of civil rights activism. But with understandable resentment all felt that Northerners had a duty to look a little more assiduously in their own backyards. In this probe of Whitewater, I believe an outsider might conclude that the single party concentration of political power in Arkansas may be in need of review that the shadow of Lyndon Johnson and Huey Long may have been cast to greatly on a former governor ship. But as a Northerner, I am obligated to note that my primary responsibility is my backyard, in this case the body to which I am elected to serve. While I believe it would be unfair to suggest that one of America's great political parties is more honest than the other, I believe the concerted effort to avoid accountability and full disclosure in the Whitewater incident, and the unfortunate institutional precedents in process of being established, reflect attitudes more associated with single party governance of closed than open societies. Competition is the American way. When single party dominance is long and deep, arrogance associated with power creeps incontestably into the system. Whitewater, in the end, may tell more about Congress than the Executive branch.

In this context, the Minority raised concerns about the manner in which the RTC Oversight hearing scheduled this week might have been conducted. Nevertheless, the Minority was disappointed the hearing was abruptly postponed.

Postponement of the hearing by the Majority raises, above anything else, the issue of compliance with the law. Compliance with the law is not a matter of convenience or discretion. The Majority party has no prerogative to avoid capriciously its legal obligations.

Hearings mandated by statute were to have occurred by December 3, 1993. It is a statutory obligation of the Majority in the Legislative Branch to conduct on a timely basis RTC oversight; it is the statutory obligation of the Executive to cooperate with Congress and comply with its legal responsibilities.

The negotiations this week between leaders of the House which led to the passage of a bipartisan resolution expressing the sense of the House as to the need to hold bipartisan hearings are promising. The subsequent statements by the Speaker that these discussions were of the "possibility of hearings, not a concession that hearings are not necessarily going to take place," is disappointing. The Majority has an obligation to ensure that the decision to postpone indefinitely RTC hearings does not amount to yet another example of Congress not applying the law to itself.

With regard to a possible hearing, let me stress the Minority has offered to cooperate fully with the Special Counsel. We have transferred substantial information to his office. We have given him our proposed witness list and offered to support a delay in the day of hearings provided under House rules to the Minority to allow him a chance to depose witnesses first. For his part, the Special Counsel, in a meeting on March 17, 1994, with the Minority, said that he would not impede in any manner Executive Branch testimony and that he would not stand in the way of an RTC oversight hearing. Mr. Fiske also stated that he did not object to the disclosure of copies of documents to Congress, other than White House documents. The existence of a Special Counsel appointed in the Madison case cannot be used as a rationale to avoid providing RTC oversight information to Congress.

Congress and prosecuting attorneys have differentiated roles, but they are by no means incompatible. In fact, they are generally complementary. Indeed, in the Banking Committee hearings over the past decade on institutions such as Lincoln (Charles Keating) and Silverado (Neil Bush) the Justice Department had tandem investigations underway. Hearings almost always reveal knowledge and perspective that is helpful to prosecutors. It was, after all, Senator Ervin's committee that revealed the existence of the Watergate tapes and it was the recent Senate hearing that revealed improper contacts between Executive Branch agencies and the White House. The major recent exception where a prosecutor was undercut by Congress involved excessive zeal to embarrass Presidents Reagan and Bush that caused a committee to offer immunity to certain witnesses in the Iran Contra probe. But the more general proposition is that constraining a Congressional inquiry has the effect of reducing knowledge, thus reducing prosecutorial discretion.

Mr. Speaker, in a country in which process is our most important product, it is the belief of this Member that the precedents established in this investigation are more important than the investigation itself. Nevertheless, I come to the floor this

afternoon to present to the attention of the House and the American people some findings, with supporting documentation, the Minority has uncovered in its ongoing investigation of the Whitewater/Madison affair.

Accordingly, I would like to review in both a perspective and information dispensing sense the Madison/Whitewater issue and divide the remainder of my discussion in two categories: what happened and how the Administration has responded.

On the landscape of political scandals Whitewater may be a bump, but it speaks mountains about me-generation public ethics as well as single party control of certain states and the U.S. Congress.

In a nutshell, Whitewater is about the arrogance of power -- Machiavellian machinations of single-party government. It all began in the late 1970s when a budding S&L owner named James McDougal formed a 50-50 real estate venture with a young politician, the then Attorney General of Arkansas Bill Clinton. In this venture called Whitewater, the S&L owner and S&L affiliated entities provided virtually all, perhaps all, the money; the governor-in-the-making provided his name.

Over the years, the company received infusions of cash from the S&L as well as from a small business investment corporation which diverted, allegedly at the Governor's request, federally-guaranteed funds from a program designed for socially and economically disadvantaged people to the Governor's partners and thence, in part, to Whitewater.

Some of these funds were used to pay off personal and campaign liabilities of the Governor; some to purchase a tract of land from a company to which the state had just given a significant tax break. Whitewater records have apparently been largely lost. A review of the numerous land transactions, however, raises questions of what happened to the money that came into the company and a review of the President's tax records raises questions about tax deductions that were taken and income that may not have been declared.

Under the governorship of Bill Clinton, Jim McDougal was named a Gubernatorial aide to serve principally as liaison to the Economic Development, Commerce, and Highway and Transportation Departments; the first lady of Arkansas was hired to represent the S&L before state regulators; the president of the S&L was placed on the state S&L commission; an attorney who represented the S&L was named the state S&L regulator; the S&L received rent from state agencies; Whitewater had roads constructed using a state agency program and state funds; and the S&L was allowed to operate, despite being insolvent for an extended period, providing millions in loans and investment dollars to insiders and the Arkansas political establishment.

Under the governorship of Bill Clinton, the S&L was allowed to grow 25-fold until federal regulators forced its closing, at which time taxpayers picked up the tab for losses that amounted to approximately 50 percent of the institution's deposit base.

Under the Governorship of Bill Clinton, the total number of state chartered savings associations declined dramatically. Over the period December 1979 to December 1992, the number of stock state chartered thrifts in Arkansas declined from thirty-three, with assets of $961,002,000 to three, with assets of $146,072,000. Viewed another way, the amount of assets available to support home mortgage lending for the people of Arkansas declined.

The story of Whitewater is thus part and parcel the story of the greatest domestic policy mistake of the century -- the quarter trillion dollar S&L debacle. It is the story of a company which in one sense was a simple real estate development venture, but in another was a vehicle used to spirit federally insured deposits from an S&L and compromise a significant political figure.

In the largest series of bank robberies in history, which precipitated an industry bailout larger than the taxpayers provided Lockheed, Chrysler and New York City times a factor of ten, it is fair to ask: "What happened? Who is responsible?"

An answer to these inquiries requires an understanding that those accountable are not only a few negligent and corrupt S&L owners, but attorneys, accountants, state and federal legislators, regulators and assorted public officials. As wide-ranging as the responsibility is, however, it is a mistake to be so glassy-eyed as not to seek lessons for the future through a demand for individual accountability for breaches of law and ethics in the past.

Macro-economics aside, public responsibility for the S&L debacle is of a tripod nature, involving: 1) the conflict-ridden role of Congress in passing loose laws; 2) the ideological mistake of the Reagan Administration in urging deregulation in an industry which requires responsible standards; and 3) the culpability of a small number of state governments, such as in California, Texas, Louisiana and Arkansas, which failed to rein in high flying state-chartered, state regulated institutions, which because of the federal nature of deposit insurance, precipitated a massive transfer of wealth from states with responsible governments to those without.

In Arkansas it is impressive how the federal government was obligated to close more than 80 percent of state-chartered S&Ls in the 1980s and how large taxpayer losses were in relation to the state's S&L deposit base. The failure of the Clinton Administration in Little Rock to fulfill its responsibility to police state financial institutions had the effect of increasing tax burdens on citizens of Arkansas as well as other states.

While taxpayers at the national level were forced to pick up the tab for the mistakes of politicians in whose elections they could not vote, citizens in states like Arkansas were doubly shortchanged. Not only did they have to share in eventual bail out costs, but when their home based financial institutions frittered away the hard earned deposit savings of their state to insiders, fewer resources were made available to potential home owners and minority entrepreneurs.

What the Keating-5 scandal was all about was the attempt of an S&L owner to compromise through political contributions significant political players, in this case five senators, to influence regulators to keep an insolvent, corruptly-run, institution from being closed. What makes Governor Clinton's involvement with a company which helped breach the vaults of an Arkansas S&L philosophically at least equal to, but in reality more troubling than the Keating model is that not only did the institution's management organize conflict-ridden fund raising endeavors for the key politician in the state, but through Whitewater it put the Governor in a compromising personal finance position as well.

What is extraordinary is the hypocrisy of the circumstance. The following 1991 announcement statement of Governor Clinton speaks for itself:

> "For twelve years of this Reagan-Bush era, the Republicans have let S&L crooks and self-serving CEO's try to build an economy out of paper and perks instead of people and products. They stack the deck in favor of their friends at the top and tell everybody else to wait for whatever trickles down."

Despite the rhetoric it is remarkable how time after time in the 1980s, alleged defenders of the little guy in American politics found themselves advancing the interests of a small number of owners of financial institutions which were run as private piggy banks for insiders. The intertwining of greed and ambition turned democratic values upside down.

In our kind of democracy ends simply don't justify means. Just as a conservative, who may despise government, has no ethical right not to pay taxes, a liberal has no ethical basis to put the public's money in his own or his campaign's pocket just because he may have the arrogance to believe he is advancing a political creed that is in the public's interest.

Why does all this matter?

Here, it would perhaps be appropriate to paraphrase the great Illinois Senator, Ev Dirksen: a few thousand here and a few thousand there and pretty soon it adds up to a real scandal. Put another way, an ethical lapse here and an ethical lapse there and pretty soon it adds up to a character deficit.

I have never known anyone in public life better able to put embarrassing episodes behind him than Bill Clinton. Accordingly, I couldn't have been more surprised by the discombobulation of the Administration at the minority's restrained request last November for hearings and full disclosure.

As in most serious public scandals, cover-ups can prove as troubling as acts at their source.

Much press attention has centered in recent weeks on the revelations of improper contact between employees of independent federal agencies and the White House. The question of whether a "heads up" was appropriate is of significance. More so, is whether the line between a "heads up" and "cover-up" was crossed.

By background, for several years a group of criminal investigators for the RTC in Kansas City reviewed the failure of Madison Guaranty Savings and Loan in Little Rock and came to the conclusion criminal referrals were appropriate. In the last week of September 1993, they sent copies of their referrals to Washington. Within a few days of receipt of the referrals from the Kansas City office, RTC Washington officials visited the White House. Within a few weeks, in an unprecedented change of procedure, Washington demanded to review all Madison referrals. Within a few months, a senior Kansas City criminal investigator was removed from the case. Within a few more months, officials from RTC Washington visited Kansas City to pass on the determined message that senior RTC officials in Washington wanted it understood that they wished to claim Whitewater was not responsible for any losses at Madison.

Courageously, Kansas City investigators refused to allow Washington RTC objections to change the content of the referrals they sent in the second week of October 1993 to the Justice Department.

Courageously, Kansas City investigators refused to back the Washington position that Madison's losses were unrelated to Whitewater and pointed out to their superiors that in one intensely reviewed six month period alone approximately $70,000 was transferred from Madison and Madison affiliated companies to Whitewater.

Courageously, Kansas City investigators have sought whistleblower protection rather than comply with the Washington RTC gag order that no one from Kansas City could speak with Special Counsel Fiske without clearance through and accompaniment of Washington RTC officials.

The briefing of the White House by high ranking Department of Treasury and RTC employees must be understood in the context of the development and transmittal to the Justice Department of these referrals and in the context of the possibility Kansas City was in the process of developing further referrals.

There are many elements of the Whitewater affair that are a bit esoteric. But the revelations that U. S. government officials briefed key White House aides on potential legal actions which independent regulatory agencies might be obligated to take implicating but not charging the President and First Lady subvert one of the fundamental premises of American democracy -- that this is a country of laws and not men.

In America no individual, whatever his or her rank, is privileged in the eyes of the law. No public official has the right to influence possible legal actions against him or herself. For this reason agencies of the government as well as the White House have precise rules that govern their employees.

The following standards (31 CFR §0.735-30) apply to the Department of Treasury:

> "An employee should avoid any action ... which might result in, or create the appearance of ...
> (2) Giving preferential treatment to any person; ...
> (4) Losing complete independence or impartiality;
> (5) Making a Government decision outside official channels; or
> (6) Affecting adversely the confidence of the public in the integrity of the Government."

Similarly, the following standards contained in 12 CFR § 1605.7 apply to RTC employees:

> "No employees shall engage in any action, which might result in, or create the appearance of ...
>
> (b) giving preferential treatment to any person; ...
> (d) losing complete independence or impartiality;
> (e) making an RTC decision outside official channels; or,
> (f) adversely affecting the public's confidence in the integrity of the RTC."

Likewise, the following standards apply to the White House (3 CFR §100.735-4):

> "In all circumstances employees shall conduct themselves so as to exemplify the highest standards of integrity. An employee shall avoid any action, whether or not specifically prohibited by this subpart, which might result in, or create the appearance of:
>
> (1) Using public office for private gain;
> (2) Giving preferential treatment to any person; ...
> (4) Losing complete independence or impartiality;
> (5) Making a Government decision outside official

channels; or

(6) Affecting adversely the confidence of the public in the integrity of the Government."

Perhaps laws have not been broken, but seldom have the public and private ethics of professionals in the White House and Executive Departments and branch agencies been so thoroughly devalued.

The point of all this is that there is a disjunction in this Administration between public policy and private ethics. Americans abhor privilege; hypocrisy gnaws at the American soul; it leaves a dispiriting residue of resentment.

What is also extraordinary is the absence of simple truth.

Administration Claim: Whitewater caused no losses to Madison.

Fact: As reflected in the minority-developed charts and evidenced by supporting documentation, Madison and affiliated companies transferred significant resources to Whitewater. In addition to being a modest sized real estate company, with a cash flow derived from land sales, Whitewater appears to be one of a dozen so companies with direct or indirect access to Madison and its taxpayer guaranteed deposits.

Administration claim: The Clintons lost money in Whitewater.

Fact: To have lost money in Whitewater implies that the Clintons invested sums which were unrecovered. Their Whitewater partner, James McDougal, claims at most the Clintons over the years put in $13,500 in Whitewater. The Minority has provided evidence that one land transaction alone returned more than this amount to the Clintons and published reports indicate tax deductions of some value were taken. The Lyons report, as well as a review of land sales, indicates substantial sums were taken out of Whitewater over the years. It is not clear how disbursements were arranged. What is clear is that infusions of capital from land sales, from Madison affiliated entities and possibly from others appear to have covered loans the company and the Clintons took out. The company may have had a negative value when the Clintons sold their half interest in 1992, but that neither means the Clintons themselves lost money, nor that questions ought not be asked about how direct or

contingent liabilities may have been disposed of as late as 1992.

Administration claim: The President and his staff would fully cooperate with Congress.

Fact: The Executive branch is actively working to prevent full disclosure of documents and committee access to witnesses.

Administration claim: It has done nothing wrong in relation to the RTC investigation into the failure of Madison and is fully cooperating with Special Counsel Fiske's probe.

Fact: Officials of an independent regulatory agency (the RTC) immediately notified the White House of the probe of Madison by its Kansas City office and attempted to put in place procedural techniques to undercut the traditional independence of its regional offices.

Fact: In January, 1994 RTC Washington met with Kansas City staff. After the meeting the Kansas City office filed a formal complaint with Washington RTC.

Fact: On February 2, 1994, the day Roger Altman briefed the White House on Madison Guaranty, RTC Senior Attorney, April Breslaw visited the Kansas City office and said that Washington would like to say that Whitewater caused no losses to Madison. Kansas City employees protested that this was not the case.

Fact: On September 29, 1993, before the new criminal referrals were sent to the Justice Department, Treasury General Counsel Jean Hanson briefed White House Counsel on them. Nine days after the meeting, the referrals were sent to the Justice Department. On October 14, Jean Hanson with Secretary Bentsen's Press Secretary and Chief of Staff met with Presidential Advisors ostensibly to discuss press inquiries related to Madison Guaranty.

Fact: On February 2, right after the appointment of Special Counsel Robert Fiske, Roger Altman gave the White House a "heads up" briefing on Madison. At the Senate Oversight Board hearing, Roger Altman revealed his February 2 meeting, but no others. Several days later, the September and October White House briefings were revealed. On March 9, the Washington Post reported that there were numerous other contacts between the Treasury and the White

House on Madison. After subpoenas are issued it is revealed that there are over 3,500 pages of documentation surrounding these contacts which the White House terms as inconsequential.

Fact: After the appointment of Special Counsel Fiske, Washington RTC officials imposed censorship guidelines on Kansas City RTC employees. No discussion with Fiske could be made without going through Washington. No meetings between Kansas City office and Fiske could take place without accompaniment of Washington officials. No materials could be forwarded without going through Washington. All information concerning attorney-client privilege was to be redacted, with Washington RTC determining the scope.

Administration Claim: No fundraising improprieties occurred.

Fact: On April 4, 1985, Jim McDougal hosted a fundraiser for Governor Clinton. The Clinton's repeatedly asked McDougal to host the fundraiser to pay off the $50,000 personal loan that Clinton had taken out in the final weeks of his 1984 campaign. The question at issue is whether some of the money appears to have been diverted from Madison Guaranty, which would then, with the failure of Madison, imply deferred federal financing of a gubernatorial election. For example, one cashier's check for $3,000 was made in the name of Charles Peacook III, then a 24-year-old college student who disclaims any knowledge of having made a contribution. Mr. Peacock's father was a major Madison borrower and served at one time on Madison's board. Other checks that the RTC is reviewing include a $3,000 check from the late Dean Landrum, an employee of Charles Peacock, and one from Susan McDougal. In the former Governor's defense, candidates are not always in a position to verify their campaign contributions.

Mr. Speaker, the President's former partner, Jim McDougal in a number of occasions has contested the assertion that no resources were taken from Madison Guaranty and its related entities and given to Whitewater. In an AP story on February 4, 1994 and on the David Brinkley Show on March 13, 1994 he specifically raised concerns that Madison Marketing was not owned by Madison Guaranty, but was instead a sole proprietorship owned by his former wife. He has cited

documents filed with the Arkansas Secretary of State's office to buttress his claim.

Mr. McDougal apparently believes there are subtleties about the nature of Madison Marketing that need clarification. Mr. McDougal gives great credence to the circumstance that at some point Madison Marketing may have been operating as an intended proprietorship of his wife, but, whether this is true, this appears to be a distinction without a difference, form over substance. The overwhelming perspective as contained in the 1986 Federal Home Loan Bank Board Report of Examination is that all Madison Marketing resources were derived from Madison Guaranty or its subsidiaries. Any money transferred to Whitewater from Madison Marketing would thus have had as its source the S&L. The 1986 FHLBB exam, upon which the earlier staff memo on this subject was based, states:

> "A. Objectionable Conflicts of Interest
>
> Conflicts of interest involving James McDougal, Susan McDougal, and William Henley have been detrimental to the safety and soundness of the Institution. These individuals are in control of the Institution (Madison Guaranty) through their stock ownership. James McDougal owns 63.5% of the outstanding Madison shares. His wife, Susan McDougal, owns 12.6%, and her brother, William Henley owns 8.5%. In addition to his ownership control, Mr. McDougal, as President of the Institution's subsidiary (Madison Financial), has complete control of the land development projects discussed in comment
>
> B. This control enabled Mr. McDougal to structure the development and financing of the projects so that substantial cash payments could be diverted to himself, Susan McDougal, William Henley and others. These payments have directly benefited these individuals, but Madison Guaranty has received little or nothing in return. Though they have been structured to avoid specific Insurance Regulations, these payments are contrary to the general policy of the FHLBB concerning conflicts of interest as stated in Insurance Regulation 571.9 and FHLBB Memorandum R-19a.
>
> Many of these payments have been funneled through business entities which are owned or controlled by the McDougals, employees, relatives of employees, or close friends of the McDougals and Henley. . . .
>
> 2. Madison Marketing
>
> Madison Marketing is paid for doing all the general advertising for Madison Guaranty and most of the advertising for Madison Financial's land development projects. All of Madison Marketing's business is derived from Madison Guaranty or its subsidiaries. Since 1983 these payments total $1,532,000. . .

> Given the evidence of Madison Marketing's invoices, it is questionable how much of these advertising services are actually performed by the firm. The actual work of advertising, such as the design and production of commercials and providing air time or newspaper space, appears to be performed by others. Madison Marketing apparently just pays the bills of other providers and adds a 15% fee of its own. Examiners estimated this fee to be approximately $200,000 since 1983. It would appear that Madison Guaranty could have an employee perform similar work for much less money.
>
> Mr. Latham stated that Madison Marketing made no payments to any stockholders. This statement is false. As a part of a test for such payments, the examiners discovered two remittances from Madison Marketing to Susan McDougal which total $50,000. This was a test, and there may be additional payments."

Mr. McDougal apparently believes Madison Marketing should be understood simply as a sole proprietorship of his wife with no ties to the S&L. This view is in discordance with that of the United States Government, as indicated by the FHLBB report cited above; it is also in discordance with a contemporaneous view of the legal situation as defined and described by Mr. McDougal in a July 1, 1986 memorandum from him to Madison Guaranty's President, Mr. John Latham. In this memorandum, which is a copy of an original Madison document in the possession of the RTC and the minority of the House Banking Committee, Mr. McDougal asserts:

> In late January, 1985, Mrs. McDougal permitted Madison Marketing to become a subsidiary of Madison Financial Corporation.

In addition, Mr. Jeff Gerth of The New York Times has reported on March 8, 1992, an earlier instance in which Madison Marketing transferred resources to Whitewater. Mr. Gerth reported:

> Whitewater's check ledger shows that Whitewater's account at Madison was overdrawn in 1984, when the corporation was making payments on the Clinton's loan. Money was deposited to make up the shortage from Madison Marketing, an affiliate of the savings and loan that derived its revenues from the institution, records also show.

In addition, David Hale and his attorney Randy Coleman have asserted in recent days that it was proceeds of an $825,000 Madison loan that was used to leverage SBA funds and to make the $300,000 loan to Susan McDougal, of which $110,000 was deposited to Whitewater.

This evidentiary material coupled with the April 17, 1985 Minutes of Madison Financial's board authorizing a transfer of $30,000 from

Madison Financial to Whitewater, the memo of L. Jean Lewis of the Kansas City RTC office showing over a six month period reviewed that approximately $70,000 was transferred from Madison or affiliated entities to Whitewater, plus other more confidential RTC material in our possession indicates there is every credible reason to believe that Madison Guaranty through affiliated entities did transfer money to Whitewater.

Furthermore, records filed with the Arkansas Secretary of State's office show that Mr. McDougal, as president of Madison Financial Corporation (a subsidiary of Madison Guaranty) on July 26, 1986 filed an application for registration of fictitious name. The application was for Madison Financial to do business as "Madison Marketing." This document does not represent incorporation papers. This application appears to be in response to the 1986 Federal Home Loan Bank exam which noted that with regard to Madison Marketing and Madison Real Estate, Madison Financial had "not registered as a 'd/b/a' in the County records."

The effect of this statement with its supporting documentation is to evidence that:

1) Whitewater may have begun as a legitimate real estate venture but it came to be used to skim, directly or indirectly, federally insured deposits from an S&L and a Small Business Investment Corporation. When each failed, the U.S. taxpayer became obligated to pick up the tab;

2) The family of the former Governor of Arkansas received value from Whitewater in excess of resources invested;

3) Taxpayer guaranteed funds were in all likelihood used to benefit the campaign of a former governor;

4) The independence of the U.S. Government's regulatory system has been flagrantly violated in an effort to protect a single American citizen;

5) Congress and the Executive are employing closed society techniques to resist full disclosure of an embarrassing circumstance, with unfortunate precedent setting ramifications.

Last month a BBC reporter asked me if we Americans weren't making too much of this scandal. He raised a fair question. Compared with petty potentates around the world, who routinely walk off with millions and in some cases billions, conflicts of interest in American politics are of petty variety. In this case, however, we have a situation where a multi-thousand dollar conflict of interest led to a multi-million dollar hit on the taxpayer. That is the meaning to the failure of Madison Guaranty. That is also the meaning of the Small Business Investment Corporation called Capitol.

It is simply not appropriate to shrug it off and say that this is the way things are done in small states. They aren't in Nebraska, South Dakota, or Iowa. It is simply not appropriate to say it isn't a federal issue. It is. The U.S. taxpayer has lost millions; home

owners in Arkansas have lost institutions that were established to serve their needs; minorities throughout the country cannot lightly shrug off yet another instance in which a program designed to give them a crack at the American dream was redirected to serve the investment ego a state political establishment.

It is suggested by the Majority that we have better things to do around here. There again is some truth to this. The minority also wants to get on with the business of health care, welfare reform, crime legislation. Indeed, we pledge to be constructive and are not blocking any Congressional consideration of these issues. But, in a larger sense, it should be understood that these "we have better things to do" laments suggest that ethics, governmental integrity, and the possible misuse of the public's money should be secondary considerations -- something to worry about only when we have time. In a democratic system, built and maintained on the confidence of the people, placing such considerations last on the list of priorities is a highly dubious game. Nothing works over the long haul if the public loses confidence in its governmental institutions and the people who operate those institutions. The task of keeping the people's confidence may not be pretty or pleasant, but it is a first priority in our system -- not a last priority as all too many are suggesting today.

Whitewater is less about the issues of the day than it is the ethics of our time. It is a central issue not because it is big, but precisely because it is small.

The way we in America keep our scandals from becoming too big is by holding people accountable when the amounts of money at issue are relatively small. It is the principles at issue, not the dollar amounts that matter.

In conclusion, let me stress that the most difficult issue to deal with is the question of proportionality. When the Minority made its restrained request for hearings last November I suggested that while there was fire with the smoke, Whitewater appeared to be more a camp than forest fire. I now believe the fire has spread to the grass and is heading to the trees but that it is still not too late to put it out with full disclosure and full accountability. In this regard, I suggested in a December Washington Post editorial that when breaches of law or public ethics occur, options often exist as to whether civil or criminal remedies are appropriate. I presumptuously concluded then and maintain now that there is no reason not to proceed with civil accountability in a civil way. The last thing this country needs is a year long trial or travail for the President of the United States. It would divide the country and be unfair to the public as well as the President.

Accordingly, I have pledged to the President's Counsel as well as to the Special Counsel that I will do my best to put the issue behind once disclosure is provided. Accountability is in order; a

constitutional crisis is not. The Presidency should neither be jeopardized nor debilitated. Rather than high crimes and misdemeanors, the issue today relates to high improprieties and breaches of the public trust.

-- 30 --

INDEX TO TABS

TAB A - December 9, 1993 letters from Congressman Leach to the Federal banking agencies requesting all documents related to Madison Guaranty Savings and Loan and its subsidiaries.

TAB B - March 8, 1994 letters from Congressman Leach to the Office of Thrift Supervision (OTS) and the Resolution Trust Corporation (RTC) requesting access to all documents related to Madison Guaranty Savings and Loan and its subsidiaries, to prepare for the RTC Oversight Hearings.

TAB C - March 10, 1994 letters from Chairman Gonzalez to the OTS and the RTC requesting that the agencies deny Congressman Leach's document request.

TAB D - March 14, 1994 letters from Chairman Gonzalez to the Federal banking agencies and the RTC stating that the agencies need not answer questions concerning Madison at scheduled RTC Oversight Hearings.

TAB E - March 1, 1994 letter copied to Congressman William Clinger.

TAB F - Charts and other supporting documentation concerning Whitewater's losses to Madison.

a. **Charts**

- Total Arkansas State Chartered S&Ls from 1979 to 1992
- Madison Guaranty Rate of Growth
- Asset Growth of Madison Guaranty
- Payment of Clinton Loan by Madison Related Entity
- **Funds from Madison Financial Corporation to Whitewater**
- **Funds Transferred from Madison Related Entities to the Whitewater Development Corporation**

b. **Other Documents**

- **April 17, 1985 Board of Directors Meeting Minutes**
- **July 1, 1986 Memorandum from Jim McDougal to John Latham concerning status of Madison Marketing**
- **February 3, 1994 letter from Congressman Leach to Roger Altman with attached staff memorandum on** links between Madison and Whitewater

TAB A

HENRY B. GONZALEZ, TEXAS, CHAIRMAN
STEPHEN L. NEAL, NORTH CAROLINA
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(202) 225-4247

December 9, 1993

Mr. Andrew C. Hove
Acting Director
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, D.C. 20429

Dear Mr. Hove:

I am writing in reference to the House Banking Committee Minority investigation of the failure of Madison Guaranty Savings and Loan (Madison). As you know, Madison was taken over by federal regulators in March of 1989 and resolved by the Resolution Trust Corporation (RTC) in November, 1990.

To assist in this investigation, I request that the Federal Deposit Insurance Corporation (FDIC) provide access to all documents related to Madison and its subsidiaries. Such documents would include, but not be limited to, administrative files, examination reports, interoffice memorandum, notes and minutes of meetings (including telephonic meetings), correspondence, electronic mail, and agreements the FDIC entered into with private sector firms to perform legal and other services related to Madison. In addition to documents in possession at FDIC-Washington, I request access to all documents related to Madison held at FDIC field offices. Furthermore, please provide the names and titles of all FDIC employees involved with the examination and supervision of Madison.

Please have your staff contact Mike McGarry at 202-225-2258 to discuss arrangements to review the aforementioned documents as soon as possible.

I appreciate your assistance and look forward to your cooperation.

Sincerely,

James A. Leach

James A. Leach
Ranking Member

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(202) 225-4247

December 9, 1993

Mr. Joe Madden
Commissioner
Arkansas Securities Department
Heritage West Building
Suite 300
201 East Markham
Little Rock, Arkansas 72201

Dear Mr. Madden:

I am writing in reference to the House Banking Committee Minority investigation of the failure of Madison Guaranty Savings and Loan (Madison). As you know, Madison was taken over by federal regulators in March of 1989 and resolved by the Resolution Trust Corporation (RTC) in November, 1990.

To assist in this investigation, I request that the Arkansas Securities Department provide access to all documents related to Madison and its subsidiaries. Such documents would include, but not be limited to administrative files, examination reports, interoffice memorandum, notes and minutes of meetings (including telephonic meetings), correspondence, electronic mail, and supervisory actions. Furthermore, please provide the names and titles of all State Securities Department employees involved with the examination and supervision of Madison.

Please have your staff contact Mike McGarry at 202-225-2258 to discuss arrangements to review these documents as soon as possible.

I appreciate your assistance and look forward to your cooperation.

Sincerely

James A. Leach
Ranking Member

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(202) 225-4247

December 9, 1993

Mr. Erskine Bowles
Administrator
Small Business Administration
409 Third Street, SW
7th Floor
Washington, DC 20416

Dear Mr. Bowles:

I am writing in reference to the House Banking Committee Minority investigation of the failure of Madison Guaranty Savings and Loan (Madison). As you know, Madison was taken over by federal regulators in March of 1989 and resolved by the Resolution Trust Corporation (RTC) in November, 1990.

To assist in this investigation, I request that the Small Business Administration (SBA) provide access to all documents related to Madison and its subsidiaries, the Whitewater Development Corporation, and Capital Management Services, Inc. Such documents would include, but not be limited to, administrative files, interoffice memorandum, notes and minutes and meetings (including telephonic meetings), correspondence, electronic mail, and loan applications and approvals. Furthermore, please provide the names and titles of all SBA employees involved with these entities.

Please have your staff contact Mike McGarry at 202-225-2258 to discuss arrangements to review these documents as soon as possible.

I appreciate your assistance and look forward to your cooperation.

Sincerely

James A. Leach

James A. Leach
Ranking Member

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(202) 225-4247

December 9, 1993

Mr. Jonathan Fiechter
Acting Director
Office of Thrift Supervision
1700 G Street, N.W.
Washington, D.C. 20552

Dear Mr. Fiechter:

I am writing in reference to the House Banking Committee Minority investigation of the failure of Madison Guaranty Savings and Loan (Madison). As you know, Madison was taken over by federal regulators in March of 1989 and resolved by the Resolution Trust Corporation (RTC) in November, 1990.

To assist in this investigation, I request that the Office of Thrift Supervision (OTS) provide access to all documents related to Madison and its subsidiaries. Such documents would include, but not be limited to, administrative files, examination reports, interoffice memorandum, notes and minutes of meetings (including telephonic meetings), correspondence, and electronic mail. In addition to documents in possession at OTS-Washington, I request access to all documents related to Madison held at OTS field offices.

Furthermore, please provide the names and titles of all OTS employees involved with the examination and supervision of Madison as well as those who were assigned to work with the RTC when the institution was closed in 1989.

Please have your staff contact Mike McGarry at 202-225-2258 to discuss arrangements to review the aforementioned documents as soon as possible.

I appreciate your assistance and look forward to your cooperation.

Sincerely,

James A. Leach
Ranking Member

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MICHAEL CASTLE, DELAWARE
PETER KING, NEW YORK

BERNARD SANDERS, VERMONT

(202) 225-4247

December 9, 1993

The Honorable Roger C. Altman
Interim Chief Executive Officer
Resolution Trust Corporation
15th and Pennsylvania Avenue, N.W.
Washington, D.C. 20220

Dear Mr. Altman:

I am writing in reference to the House Banking Committee Minority investigation of the failure of Madison Guaranty Savings and Loan (Madison). As you know, Madison was taken over by federal regulators in March of 1989 and resolved by the Resolution Trust Corporation (RTC) in November, 1990.

To assist in this investigation, I request that the RTC provide access to all documents related to Madison and its subsidiaries. Such documents would include, but not be limited to, administrative files, examination reports, interoffice memorandum, notes and minutes of meetings (including telephonic meetings), correspondence, electronic mail, and agreements the RTC entered into with private sector contractors during the resolution of Madison. In addition to documents in possession at RTC-Washington, I request access to all documents related to Madison held at RTC field offices. Furthermore, please provide the names and titles of all RTC employees involved with the disposition of Madison.

Please have your staff contact Mike McGarry at 202-225-2258 to discuss arrangements to review the aforementioned documents as soon as possible.

I appreciate your assistance and look forward to your cooperation.

Sincerely,

James A. Leach
Ranking Member

TAB B

[illegible]

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
ONE HUNDRED THIRD CONGRESS
2129 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6050

[illegible]

March 8, 1994

Mr. Jonathan Fiechter
Acting Director
Office of Thrift Supervision
1700 G Street, N.W.
Washington, D.C. 20552

Dear Mr. Fiechter:

I am writing in reference to the House Banking Committee's statutorily mandated, semi-annual RTC Oversight Hearings which are scheduled for the end of March. As you know, a major area of oversight at these hearings will be the failure and resolution of Madison Guaranty Savings and Loan, Little Rock, Arkansas. Madison was taken over by federal regulators in March of 1989 and resolved by the Resolution Trust Corporation (RTC) in November, 1990.

As ranking Member of the House Banking Committee, I request that the OTS provide the Committee with access to all documents related to madison and its subsidiaries. Members of the Committee will need access to this material to prepare for the upcoming hearings and to perform their ongoing oversight responsibilities. (As I am sure you are aware, documents provided to the Ranking Member are available to the Committee as a whole under the Committee rules.) The documents requested would include, but not be limited to, administrative files, examination reports, interoffice memorandum, notes and minutes of meetings (including telephonic meetings), correspondence, electronic mail, and agreements the RTC entered into with private sector contractors during the resolution of Madison. In addition to documents in possession at OTS-Washington, I request access to all documents related to Madison held at OTS field offices. Furthermore, please provide the names and titles of all OTS employees involved with the supervision of Madison.

Please have your staff contact Joe Seidel at (202)226-3241 or Mike McGarry at (202)225-2258 to discuss arrangements to review the aforementioned documents as soon as possible. As you are aware, I have previously requested access to these documents for use in performing other Committee functions. My final letter concerning that request, was forwarded yesterday, March 7, 1994. If the agency decides to comply with that request, we will, of course, consider this request satisfied as well.

I appreciate your assistance and look forward to your cooperation.

Sincerely,

James A. Leach
Ranking Member

JAL:jls

cc: Henry B. Gonzalez
Chairman
Committee on Banking, Finance
and Urban Affairs
2413 Rayburn House Office Building
Washington, DC 20515

HENRY B. GONZALEZ, TEXAS, CHAIRMAN

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BERNARD SANDERS, VERMONT

(202) 225-4247

March 8, 1994

John E. Ryan
Deputy Chief Executive Officer
Resolution Trust Corporation
801 - 17th Street, N.W.
Washington, D.C. 20434

Dear Mr. Ryan:

I am writing in reference to the House Banking Committee's statutorily mandated, semi-annual RTC Oversight Hearings which are scheduled for the end of March. As you know, a major area of oversight at these hearings will be the failure and resolution of Madison Guaranty Savings and Loan, Little Rock, Arkansas. Madison was taken over by federal regulators in March of 1989 and resolved by the Resolution Trust Corporation (RTC) in November, 1990.

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James A. Leach
Ranking Member

JAL:jls

cc: Henry B. Gonzalez
Chairman
Committee on Banking Finance
and Urban Affairs
2413 Rayburn House Office Building
Washington, DC 20515

TAB C

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(202) 225-4247

March 10, 1994

Mr. Jonathan Fiechter
Acting Director
Office of Thrift Supervision
1700 G Street, NW
Washington, D.C. 20552

Dear Mr. Fiechter:

You have recently received letters from Congressman Jim Leach requesting access to all documents you possess concerning Madison Guaranty Savings and Loan and its subsidiaries. The March 8, 1994 letter states that, "Members of the Committee will need access to this material to prepare for the upcoming [RTC oversight] hearings and to perform their ongoing oversight responsibilities."

This letter is to inform you that the Banking Committee is not conducting an investigation of Madison Guaranty Savings and Loan or related matters at this time. Mr. Leach's requests do not constitute a Rule X or Rule XI investigation under the House Rules. A hearing does not provide the basis for a member of Congress to obtain documents to which he or she is not otherwise entitled. I will request any information needed by the Committee in order to prepare for any Thrift Depositor Protection Board Oversight hearings pursuant to section 21A(k)(6) of the FHLB Act and will make it available to members of the Committee, as appropriate.

I trust that you will give Congressman Leach's requests the consideration they merit and extend to him the same courtesies you would extend to any member of Congress.

Sincerely,

Henry Gonzalez

Henry B. Gonzalez
Chairman

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(202) 225-4247

March 10, 1994

John E. Ryan
Deputy Chief Executive Officer
Resolution Trust Corporation
801 17th Street, NW
Washington, D.C. 20434

Dear Mr. Ryan:

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Sincerely,

Henry B. Gonzalez
Chairman

TAB D

HENRY B. GONZALEZ, TEXAS, CHAIRMAN

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(202) 225-4247

March 14, 1994

Mr. Andrew C. Hove Jr.
Acting Chairman
Federal Deposit Insurance Corporation
Member, Thrift Depositor Protection Oversight Board
550 Seventeenth Street, N.W.
Washington, D.C. 20429

Dear Mr. Hove:

You have previously been invited by letter dated March 3, 1994 to appear before the Committee on Banking, Finance and Urban Affairs for the purpose of the semiannual appearance of the Thrift Depositor Protection Oversight Board. I expect that Republican members of the Committee may use the opportunity of the Oversight Board hearing to pursue extraneous matters, including Madison Guaranty Savings and Loan. Any questions regarding Madison Guaranty Savings and Loans, matters that are the subject of pending investigations by Special Counsel Fiske or other law enforcement authorities, or other extraneous matters not specifically set forth in section 21A(k)(6) of the Federal Home Loan Bank Act or the March 3, 1994 invitation letter will not be considered pertinent at the hearing and need not be answered by you.

I was the primary sponsor of the provision to require the Oversight Board to appear on a semiannual basis so that the Committee could oversee its activities. The recent appropriation of funds to the RTC, the management reforms, and FDIC-RTC transition measures required under Public Law 103-24 clearly require the complete and full attention of the Committee in order to have a successful Oversight Board hearing. I intend to keep the hearing so focused.

I look forward to your March 24, 1994 appearance.

Sincerely,

Henry Gonzalez

Henry B. Gonzalez
Chairman

TAB E

Congress of the United States
House of Representatives
Washington, D.C. 20515

March 1, 1994

Honorable Carol M. Browner
Administrator
U. S. Environmental Protection Agency
401 M Street, S.W.
Washington, D. C. 20460

Dear Madam Administrator:

You have recently received a request from various minority members of the Committees on Armed Services, Energy and Commerce, Government Operations, and Natural Resources for information concerning the Waste Isolation Pilot Plant (WIPP) Test Phase. Their letter requests answers to a number of questions concerning WIPP as well as numerous documents, and cites Rules X and XI of the House of Representatives as the basis for the request.

This letter is to inform you that the above mentioned committees have no ongoing investigations of the WIPP Test Phase at this time. Therefore, the minority members' request does not constitute a Rule X or Rule XI investigation under the House Rules.

This is not intended in any way to direct the nature of your response to that letter. Indeed, we expect that you would show the members the same courtesies as you would any member of Congress.

Sincerely,

John Conyers, Jr.
Chair, Committee on
Government Operations

John D. Dingell
Chair, Committee on
Energy and Commerce

George Miller

George Miller
Chair, Committee on
Natural Resources

Ronald V. Dellums
Chair, Committee on
Armed Services

TAB F

Federal Home Loan Bank Board
REPORT OF EXAMINATION
COMMENTS

Docket No.
2601

Information concerning the Institution's policies, practices and condition, considered to be of supervisory interest or concern, is shown below.

A. Objectionable Conflicts of Interest

Conflicts of interest involving James McDougal, Susan McDougal, and William Henley have been detrimental to the safety and soundness of the Institution. These individuals are in control of the Institution (Madison Guaranty) through their stock ownership. James McDougal owns 61.5% of the outstanding Madison shares. His wife, Susan McDougal, owns 17.6%, and her brother, William Henley owns 8.5%. In addition to his ownership control, Mr. McDougal, as President of the Institution's subsidiary (Madison Financial), has complete control of the land development projects discussed in comment B.

This control enabled Mr. McDougal to structure the development and financing of the projects so that substantial cash payments could be diverted to himself, Susan McDougal, William Henley and others. These payments have directly benefited these individuals, but Madison Guaranty has received little or nothing in return. Though they have been structured to avoid specific Insurance Regulations, these payments are contrary to the general policy of the FHLBB concerning conflicts of interest as stated in Insurance Regulation 571.7 and FHLBB Memorandum R-19a.

Many of these payments have been funneled through business entities which are owned or controlled by the McDougals, employees, relatives of employees, or close friends of the McDougals and Henley. In the report, reference will be made to these individuals as the McDougal-Henley Group. Though the activities of these business entities may be appropriate for a savings and loan institution to perform, the advantages associated with these activities accrue to the McDougals and Henley, rather than Madison Guaranty. As such, these arrangements are contrary to the FHLBB's policy concerning appropriations of corporate opportunity as explained by Insurance Regulation 571.9.

Mr. McDougal stated that there were no violations of the conflict of interest regulations.

There are several of these business entities, none of which are disclosed on the Examination Management Questionnaire. The investigation of these businesses remains incomplete. For example, the amount of Madison Guaranty loan proceeds going to many of the entities is unknown. Formal investigative powers have been granted; in this case, under Section 407(m)(2) of the National Housing Act. Current findings, with respect to three of the more important business entities, are discussed below.

1. Madison Real Estate

Madison Financial pays commissions to Madison Real Estate for selling land from Madison Financial's developments. These commissions in turn are distributed to the sales personnel. Mr. Latham stated that Madison Real Estate was "a division" of Madison Financial. Mr. McDougal stated that Madison Real Estate was essentially formed in order to use Susan McDougal's real estate sales license which, in turn, was being used by Madison Financial to market the projects. But Madison Real Estate's checking account was not on Madison Financial's books until after management was notified of this fact by the examiners. Also, Madison Real Estate is not registered in county records as a name being used by Madison Financial or anyone else.

Since the beginning of 1981, after the McDougals and Henley acquired Madison Guaranty, substantial commissions were paid through Madison Real Estate to William Henley ($427,683) and Susan McDougal ($137,500). In Henley's case, a substantial portion of these funds were advances against commissions to be earned on future land sales. Other McDougal-Henley Group members, who received substantial commissions, are Pat Harris ($242,289) and James Henley ($154,690), who is the brother of Susan McDougal and William Henley. These payments

Docket No. 2601

[redacted] of the commissions paid by Madison Financial to Madison Real Estate, which significantly derives all of its business from Madison Financial.

Many of the sales, which generated these commissions, were to McDougal-Henley Group members who are acting as straw buyers. Madison Guaranty essentially retained the risks of ownership on these transactions because it fully financed these sales including the cash sales commissions. Thus, Madison Guaranty's position deteriorated because it retained the same ownership risks as before, but paid cash fees to these individuals. In addition, fees paid through Madison Real Estate were used as down payments in some of the straw land purchases in an apparent attempt to disguise 100% funding of the purchase by Madison Guaranty and its subsidiaries.

Key

Let

Messrs. McDougal and Latham cited an April 24, 1985 letter from a Federal Home Loan Bank of Dallas Supervisory Agent as permission to pay real estate sales commissions to Madison Real Estate. However, this letter in part, asks that the Board of Directors review Insurance Regulation 571.7 which is cited above in this comment.

2. Madison Marketing

Madison Marketing is paid for doing all the general advertising for Madison Guaranty and most of the advertising for Madison Financial's land development projects. All of Madison Marketing's business is derived from Madison Guaranty or its subsidiaries. Since 1983 these payments total $1,537,000. Until February 1986, Susan McDougal owned Madison Marketing. During a portion of this time, it was a corporation which was incorporated by Lisa Aunspaugh, reportedly a close friend of Susan McDougal.

Mr. Latham stated that after February 1986, Madison Marketing became an entity "d/b/a (doing business as)" for Madison Financial and ceased to be a corporation. However, it is not registered as a "d/b/a" in the County records. Also, its checking account has never been recorded on the books of Madison Financial.

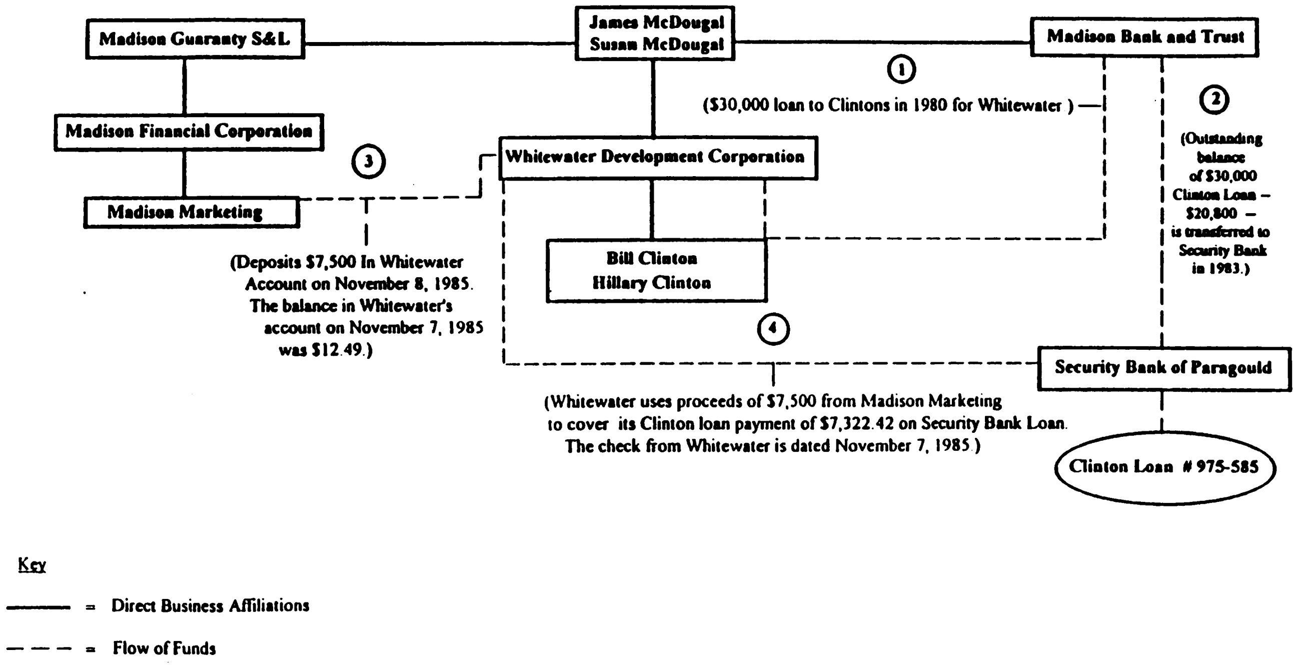
Given the evidence of Madison Marketing's invoices, it is questionable how much of these advertising services are actually performed by the firm. The actual work of advertising, such as the design and production of commercials and providing air time or newspaper space, appears to be performed by others. Madison Marketing apparently just pays the bills of other providers and adds a 15% fee of its own. Examiners estimated this fee to be approximately $200,000 since 1983. It would appear that Madison Guaranty could have an employee perform similar work for much less money.

Mr. Latham stated that Madison Marketing made no payments to any stockholders. This statement is false. As a part of a test for such payments, the examiners discovered two remittances from Madison Marketing to Susan McDougal which total $50,000. This was a test, and there may be additional payments.

3. Castener's Construction

Castener's Construction performs construction work on some of the land development projects and on some of the property securing Madison Guaranty loans. In 1985 and to date in 1986, $247,000 was paid for work performed for Madison Guaranty and its subsidiaries. The amount of loan proceeds paid to Castener's Construction on work for third party borrowers is unknown. Castener's Construction appears to be a

Payment of Clinton Loan by Madison Related Entity


Madison Guaranty S&L
James McDougal
Susan McDougal
Madison Bank and Trust
①
($30,000 loan to Clintons in 1980 for Whitewater)
②
(Outstanding balance of $30,000 Clinton Loan – $20,800 – is transferred to Security Bank in 1983.)
Madison Financial Corporation
③
Whitewater Development Corporation
Madison Marketing
(Deposits $7,500 In Whitewater Account on November 8, 1985. The balance in Whitewater's account on November 7, 1985 was $12.49.)
Bill Clinton
Hillary Clinton
④
Security Bank of Paragould
(Whitewater uses proceeds of $7,500 from Madison Marketing to cover its Clinton loan payment of $7,322.42 on Security Bank Loan. The check from Whitewater is dated November 7, 1985.)
Clinton Loan # 975-585
Key
= Direct Business Affiliations
= Flow of Funds

Source Whitewater Development Corporation check ledgers /Whitewater Development Corporation cancelled checks

MEMO

July 1, 1986

TO: John Latham

FROM: Jim McDougal

MADISON MARKETING

When the service corporation undertook its first land development project in the spring of 1983, it was determined to primarily advertise the home sites through the use of television. The firm of Rothman and Lowery was retained as Madison's advertising agency. Because her education is in speech and drama, Mrs. McDougal assisted in preparation of copy for the commercials, appeared in the commercials, and assisted in editing the commercials. She either wrote or rewrote all newspaper copy to advertise the subdivision. Until the summer of 1984, the corporation undertook the development of other subdivision in addition to Maple Creek Farms.

During this period the creative audio and visual quality of the production produced for the media by Rothman and Lowery progressively deteriorated. Additionally, the firm frequently made mistakes as to the placement of advertising or omitted to place advertising when instructed to do so.

In late summer 1984, after advising the board of directors of the savings and loan and after seeking the legal opinion from counsel, Mrs. McDougal formed Madison Marketing. She undertook, with hired assistants, the writing of copy, taping of spots, and placement of advertising for both the savings and loan and the service corporation. For the work she received exactly the same fee which had been paid Rothman and Lowery, with the exception of the fact that she did not charge for production of television spots or the writing of newspaper copy.

Additionally, she negotiated a much lower rate structure with the television stations than the company had been paying when the ads were placed through Rothman and Lowery. In late January, 1985. Mrs. McDougal permitted Madison Marketing to become a subsidiary of Madison Financial Corporation. Because Madison Marketing was at this point a "recognized agency" by the electronic media, this resulted in Madison Financial Corporation receiving the 15 percent discount normally given advertising agencies. Mrs. McDougal continues to perform all the aforementioned duties in connection with the company's advertising at no fee.

- Memo, John Latham/Jim McDougal
  July 1, 1986

MADISON REAL ESTATE

When initial sales began at Maple Creek Farms in April of 1983, the listing broker was Perryman Realty Company, Inc. Mr. Perryman had, at this time, other interests including his own subdivisions. This prohibited his devoting the seven days a week necessary to the sales effort then under way at Maple Creek Farms and his listing was terminated.

Some of Mr. Perryman's better salesmen desired to remain at Maple Creek and continue selling. However, Arkansas law requires that real estate salesmen be under the direct supervision of a licensed real estate broker. Mrs. McDougal holds a valid broker's license. In 1983, her license was held under the name "McDougal Real Estate" although she was not actively involved in the sale of real estate at this time.

Upon the termination of Mr. Perryman's activities, Mrs. McDougal changed the name of her real estate company to " Madison Real Estate Company". Madison Real Estate became a wholly owned subsidiary of Madison Financial Corporation. From that time until the present, Mrs. McDougal has performed the duty of supervision broker for the various salesmen working for Madison Real Estate. Although it is normal practice that the supervising broker receives at least thirty percent of commissions generated by the salesmen under their supervision, Mrs. McDougal charged no such fees. The only fees Mrs. McDougal has received from Madison Real Estate are fees for sales she made personally.

SORENSON ENTERPRISES

Sorenson Enterprises is a sole proprietorship owned by Erik Sorenson. Mr. Sorenson is a general contractor engaged in construction and landscaping work. He built the sales office for the subdivison at Camden known as Greentree Farms. He also built the sales office at Fair Oaks. At several of our subdivisions in southern Arkansas, he supervised the painting and erection of signs in entranceways. He employed in these subdivisions a crew of men engaged in selective clearing of trees, planting of grass, and the general beautification of the subdivisions. Concurrent with this activity, Mr. Sorenson was engaged in building houses for other persons unrelated to this company.

Because of the observed quality of his workmanship, he was placed under Mr. Dutton's command at Little Rock, and given the responsibility of constructing or making additions to various houses at Maple Creek Farms owned by the company. When the company undertook the development of Castle Grande Estates, an arrangement was negotiated with Mr. Sorenson whereby for a flat monthly fee he would supervise the assembling of the modular houses and these duties involved the preparation of footings and foundations, the adding of brick trim, and supervision of correcting any defect in the workmanship of the house, and supervision of the installation of central air conditioning and utilities.

MADISON PROPERTIES

Madison Properties assets consists primarily of a very large masonary building located on several acres with two producing gas wells in Madison County just south of the county seat of Huntsville. Madison Properties has no connection to Madison Guaranty Savings and Loan or Madison Financial Corporation.

MASTER DEVELOPERS

Three stockholders are working in conjunction with the development of 59 acres located on 145th Street. Two stockholders have extensive experience in real estate development and sales. These individuals have engaged in exhaustive market research to determine immediate commercial use for subject property. Their feasibility and marketing studies indicate the immediate need for a fast-food outlet to serve the several hundred industrial and service employees presently employed within 1,500 feet of subject location. There is no such outlet within several miles to serve the heavily populated suburban areas surrounding the property. Additional trade is anticipated from traffic generated by the freeway which services the location.

For the same reasons outlined above, need is indicated for a convenience store and gasoline outlet. As mentioned above a convenience store is esential to the successful sale of residential lots. Roadrunner, Incorporation, a highly successful Arkansas based convenience store and gasoline outlet franchiser, has conducted an extensive market survey which has concluded that such a facility located on subject property would be successful. Two of the principals of Master Developers have arranged for separate financing to erect such a facility.

Also, negotiations are far advanced for the sale of two acres of the property to a building supply and insulation firm.

The preliminary master development plan for the business park to be created is completed and a copy is attached.

ISLAND CONSTRUCTION

The lots at Campobello which were under development last year, were so heavily overgrown with spruce trees and other foliage, that our sales people were finding it difficult to walk prospects from the road to the ocean therefore, greatly inh the sale of frontage lots.

Additionally, the density of the foliage prohibited a view of the ocean from the interior lots lying immediately behind the ocean front lots, thereby diminishing the value of those lots because of this lack of view of the water.

Initially, unsuccessful attempts were made to employ timber cutters with chain saws to selectively clear the ocean front lots. This process proved too slow and too costly. When it was determined that lot preparation could not keep pace with sales using this method and further determined that this process distracted from the beauty of the lots because it left them covered with stumps, another solution was sought.

Mr. Randolph, who was thoroughly familiar with the use of mechanical methods employed by the company to prepare lots for sale and who had had extensive experience working in various subdivisions owned by the company, was asked to come to Campobello to devise a method of overcoming this landscaping and marketing problem. Upon his arrival he immediately leased the proper bull dozer for such work and trained bull dozer operators living on the island as to the proper method of selectively clearing the lots and removal of the rsulting debris from the lots. Direct correlation by the increasing sales and his arrival is easily demonstrative. For example, every lot he caused to be prepared in his first week of work was sold that weekend. His additional duties involved building driveways which permitted access from the main thoroughfare through the lot to the water's edge.

The company owns a large tract of land abutting the highway immediately at the entrance to the island. Our predecessor in title had cut the timber from this tract some years ago. When this sort of clear cutting occurs on that island, a large bushy plant, which is quite unattractive, grows to a great height and has an especially virulent root system which inhibits its removal effectively even by a bull dozer. Mr. Randolph purchased a new 70 horsepower tractor then attached a device known as a "tree eater" to be used in the eradication of this plant. This method was effectively employed and the entrance to the island again beautified so as to make the ocean visible, thus greatly enhancing the value of our entire property. Mr. Randolph left the tractor he purchased at Campobello where it is in use until this time. Personnel he trained in the proper method of beautification of our property are continuing the process this year with very beneficial effects.

JM/ss
Att--

FEDERAL HOME LOAN BANK BOARD
OFFICE OF EXAMINATIONS AND SUPERVISION

Name and Address of Institution MADISON GUARANTY SAVINGS AND LOAN ASSOCIATION

1501 MAIN STREET, LITTLE ROCK, ARKANSAS 72203

District Number NINE Docket Number 601

Examination as of (Date) MARCH 4, 1986

Service Corporations and Other Affiliates Examined:

MADISON FINANCIAL CORPORATION

REPORT OF EXAMINATION

Prohibition of Disclosure or Release

This document is the property of the Federal Home Loan Bank Board and is furnished to the institution for its confidential use. Under no circumstances shall the institution, or any of its directors, officers, or employees, disclose or make this document or any portion of it public in any manner.

If a subpoena or other legal process is received calling for production of this document, the District Director - Examinations should be notified immediately. The attorney at whose instance the process was issued, and, if necessary, the court which issued the process, should be advised of the above prohibition and referred to Part 505 of the General Regulations of the Federal Home Loan Bank Board.

Directors, in keeping with these responsibilities, should review this report thoroughly. This report should not be considered an audit report.

FHLBB Form 150

7. John Latham at all relevant times was the President and Chief Executive Officer of Madison Guaranty and a member of its Board of Directors; and a member of the Board of Directors and the Secretary of MFC.

8. Susan McDougal was at all relevant times wife of James B. McDougal, member of the Board of Directors of Madison Guaranty, President of Madison Real Estate, a division of MFC, and President of Madison Marketing, a service provider to Madison Guaranty and MFC.

9. Madison Real Estate was a real estate brokerage operation owned and operated by Madison Financial with its principal broker Susan McDougal.

10. Madison Marketing was an advertising agency through which Madison Financial and Madison Guaranty purchased all of its advertising for itself and MFC's real estate developments.

11. Jim, David and Bill Henley ("Henley Brothers") were real estate agents and/or developers for Madison Real Estate, who sold property and received substantial commissions and/or development fees from Madison Financial.

12. Frost & Company purported to serve as independent auditor of Madison Guaranty and its consolidated subsidiary Madison Financial for the years 1984 and 1985.

13. James D. Alford at all relevant times was the audit and accounting partner of Frost & Company in charge of the Madison Guaranty audit.

14. Federal Home Loan Bank Board ("FHLBB") is the primary federal regulator of Madison Guaranty. FHLBB has oversight of the Federal Home Loan Bank of Dallas which has direct supervisory responsibility for Madison Guaranty.

IV

LEGAL AND AUDITING FRAMEWORK

15. This action arises from Frost & Company's breach of its duty and agreement to provide professional services in that (a) defendant Frost & Company violated Generally Accepted Auditing Standards ("GAAS") in connection with its audits of, and opinions

FILED

MAR 14 1991

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
SECOND DIVISION

[redacted] GUARANTY SAVINGS AND LOAN ASSOCIATION, a State Chartered Savings and Loan; MADISON FINANCIAL CORPORATION, a Wholly Owned Subsidiary of Madison Guaranty Savings and Loan Association, Plaintiffs,	)	
vs.	)	No. 88-1193
[redacted], an Arkansas Professional Association, and its directors James Alford, Michael Robinson, Gary Grey, Gaines Norton, Tim Gibbon, Steve Humphries, Alan Duncan, Frank Butts, Marjorie Itzkowitz, John Does A, B, C, D Defendant.	)	

FIRST AMENDED COMPLAINT

COMES NOW, Plaintiffs, and for cause of action states as follows:

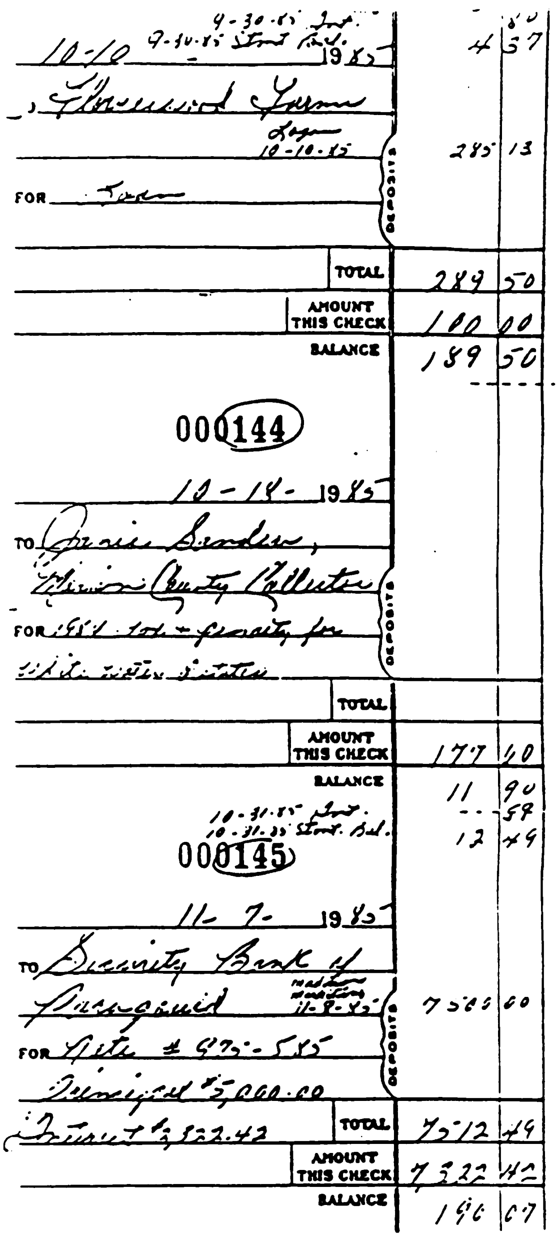
I

PARTIES

1. Plaintiff Madison Guaranty Savings and Loan Association (hereinafter, Madison Guaranty) is a state savings & loan association duly chartered under the laws of the State of Arkansas. Plaintiff Madison Financial Corporation (hereinafter, Madison Financial) is a state chartered corporation and wholly owned subsidiary of Madison Guaranty.

2. Defendant Frost & Company is a professional association or partnership of public [redacted] with its principal place of business in Little Rock, Arkansas, comprised of the following individual partners who are set forth as Defendants in paragraph 3.

3. Defendants James Alford, Michael Robinson, Gary Grey, Gaines Norton, Tom Gibbon, Steve Humphries, Alan Duncan, Frank Butts, Marjorie Itzkowitz, John Does A, B, C, D are directors or



4-30-85 Int. | 80
9-30-85 Stmt. Bal. | 4 | 57

10-10 1985

Flowerwood Farms

Logan
10-10-85 | 285 | 13

FOR Loan

DEPOSITS

TOTAL	289	50
AMOUNT THIS CHECK	100	00
BALANCE	189	50

000144

10-14-1985

TO Jessie Sanders,

Marion County Collector

FOR 1984 tax + penalty for

White Water Estates

DEPOSITS

TOTAL		
AMOUNT THIS CHECK	177	60
BALANCE	11	90
10-31-85 Int.		59
10-31-85 Stmt. Bal.	12	49

000145

11-7-1985

TO Security Bank of

Paragould

Madison Guaranty
11-8-85 | 7500 | 00

FOR Note # 973-585

Principal $7,000.00

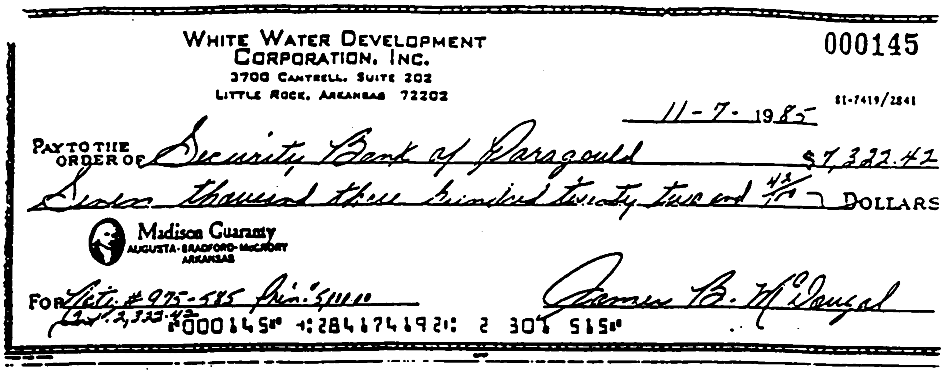
Interest $322.42

DEPOSITS

TOTAL	7512	49
AMOUNT THIS CHECK	7322	42
BALANCE	190	07

This is the
white
water check
leger
Drawn on Madison

X



WHITE WATER DEVELOPMENT
CORPORATION, INC.
3700 CANTRELL, SUITE 202
LITTLE ROCK, ARKANSAS 72202

000145

81-7419/2841

11-7-1985

PAY TO THE ORDER OF Security Bank of Paragould $7,322.42

Seven thousand three hundred twenty two and 42/100 DOLLARS

Madison Guaranty
AUGUSTA · BRADFORD · McCRORY
ARKANSAS

FOR Acct. #975-585 Prin. 5,000.00
Int. 2,322.42

James B. McDougal

⑈000145⑈ ⑆284174192⑆ 2 301 515⑈

Account notation on check is different from notation on McDougal letter –

JIM McDOUGAL

P. O. Box 1583

Little Rock, Arkansas 72203

[illegible] copy

November 8, 1985

Mr. Charles D. Campbell
Vice President
Security Bank
P. O. Box 670
Paragould, Arkansas 72450

Re: Note #957-585, Bill Clinton

Dear Mr. Campbell:

Enclosed is a White Water Development Corporation check for $7,322.42, representing principal payment of $5,000 and interest payment of $2,322.42, on the above note.

Thank you for your attention to this matter.

Sincerely,

Jim McDougal

Jim McDougal

JM/ss
Enc

P.O. BO 670 PARAGOULD, ARKANSAS 72450
501-239-9571

September 30, 1983

Governor Bill Clinton
1800 Center
Little Rock, AR 72205

Dear Governor Clinton:

Enclosed is a copy of our check #12677 in the amount of $20,800.00 representing the proceeds of your note. The original was mailed to: Madison Bank & Trust, Kingston, Arkansas.

Sincerely,
Charles D Campbell

Charles D. Campbell
Vice President

CDC/lam

Security Bank
P. O. BOX 670
PARAGOULD, ARKANSAS 72450

No 12677

9-30 19 83

81-82/841

PAY

TO THE ORDER OF Madison Bank & Trust 208

$ 20,800.00

NOT NEGOTIABLE

FOR loan proceeds for Gov. Bill Clinton

⑆08410082 9⑆ 2725⑈851⑈

- The check McDougal enclosed with his letter to Mr. Campbell is a Whitewater Development Corporation check dated November 7, 1985. The loan number referenced on the memo portion of the check is "Note #975-585."

- According to the check ledgers for the Whitewater Development Corporation (WDC), the corporation's checking account had the following balances: $189.50 on 10-10-85; and, $12.49 on 10-31-85. However, in order to cover the payment of $7,322.42 on the Clinton loan, a deposit is recorded on November 8, 1985 in the amount of $7,500.00. The deposit is listed as coming from "Madison Marketing."

- A 1986 Federal Home Loan Bank Board exam gives the impression that Madison Marketing was largely a sham corporation used to divert federally insured resources to insiders. The exam notes that "Until 1986, Susan McDougal owned Madison Marketing." The report also states the following:

> "Madison Marketing is paid for doing all the general advertising for Madison Guaranty and most of the advertising for Madison Financial's land development projects. All of Madison Marketing's business is derived from Madison Guaranty or its subsidiaries. Since 1983 these payments total $1,532,000."
>
> "Given the evidence of Madison Marketing's invoices, it is questionable how much of these advertising services are actually performed by the firm. The actual work ... appears to be performed by others. It would appear that Madison Guaranty could have an employee perform similar work for much less money."
>
> "Mr. Latham [an officer of Madison] stated that Madison Marketing made no payments to any stockholders. This statement is false. As part of a test for such payments, the examiners discovered two remittances from Madison Marketing to Susan McDougal [a large stockholder of Madison] which total $50,000. This was a test, and there may be additional payments."

CONCLUSION

Given the above circumstances, it would appear that federally insured deposits (i.e., funds from Madison Guaranty through Madison Marketing), which, with the later failure of Madison became, in effect, taxpayer obligations, were transferred for the direct personal benefit of the former Governor.

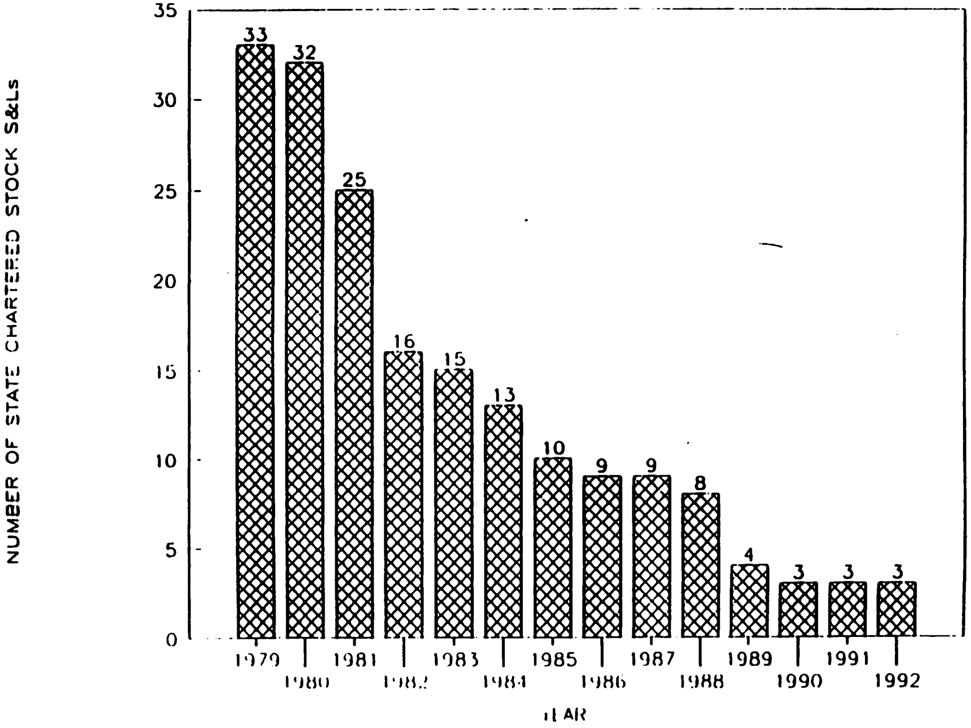
The above payment also raises the question of whether Whitewater

was treated as an affiliate or related interest of Madison Guaranty and therefore subject to conflict of interest statutes. From a legal perspective, it could be argued that the McDougals' controlling interest in Madison Guaranty and their substantial ownership interest in Whitewater could qualify Whitewater as an "affiliate" of Madison Guaranty. Even if Whitewater is not considered a subsidiary, related interest, or affiliate of Madison Guaranty, such an extension of funds to a presumably "unaffiliated" entity would be very unusual and suspect.

It has been publicly reported, with respect to this loan repayment, that both Whitewater and the Clintons took a tax deduction related to interest paid on the same loan -- which the Clintons later recognized as improper double deduction after an article ran in the New York Times. What remains unclear is the larger question of whether the funds provided by Madison to reduce the Clinton's liability were proper or properly reported as income for income tax purposes.

As you know, we have received broad hints from within the RTC that the agency has had under review money transfers from Madison to Whitewater. We will not know whether this type of activity was more pervasive and part of a larger pattern unless, and until, the agency provides us the documents we have requested. If Madison provided any direct or indirect assistance to Whitewater, presumably half the value of such would redound to the advantage of each of the half owners. In any regard, the above money transfer underscores that then Governor Clinton had personal liabilities reduced by a payment from Madison. Such payment presumably carries ethical as well as tax implications and is part and parcel of the $47 to $60 million estimated taxpayer loss at Madison.

Attachments

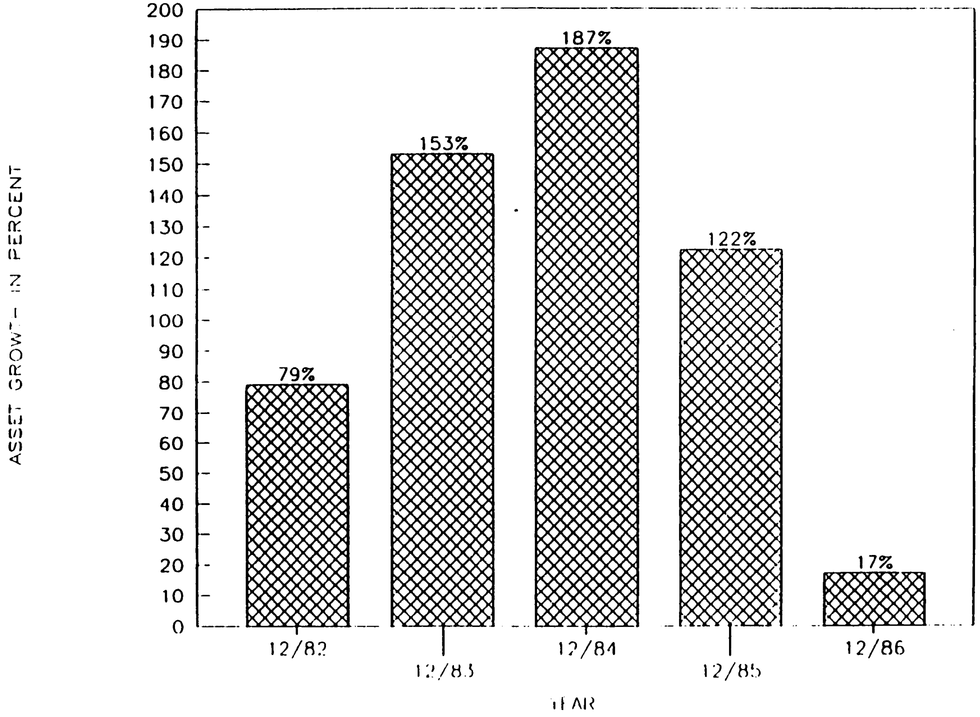


TOTAL ARKANSAS STATE CHARTERED S&Ls

FROM 1979 TO 1992

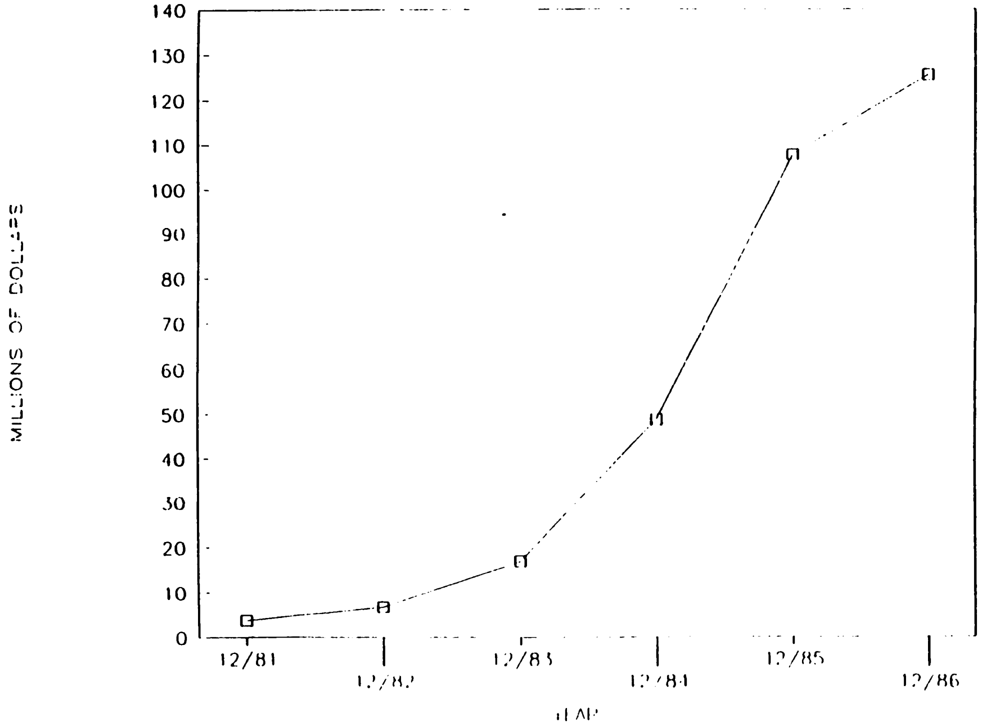
Over the period December 1979 to December 1992, the number of stock state-chartered thrifts in Arkansas declined from thirty-three, with assets of $961,002,000 to three, with assets of $146,072,000. (Source: OTS Documents)

MADISON GUARANTY RATE OF GROWTH



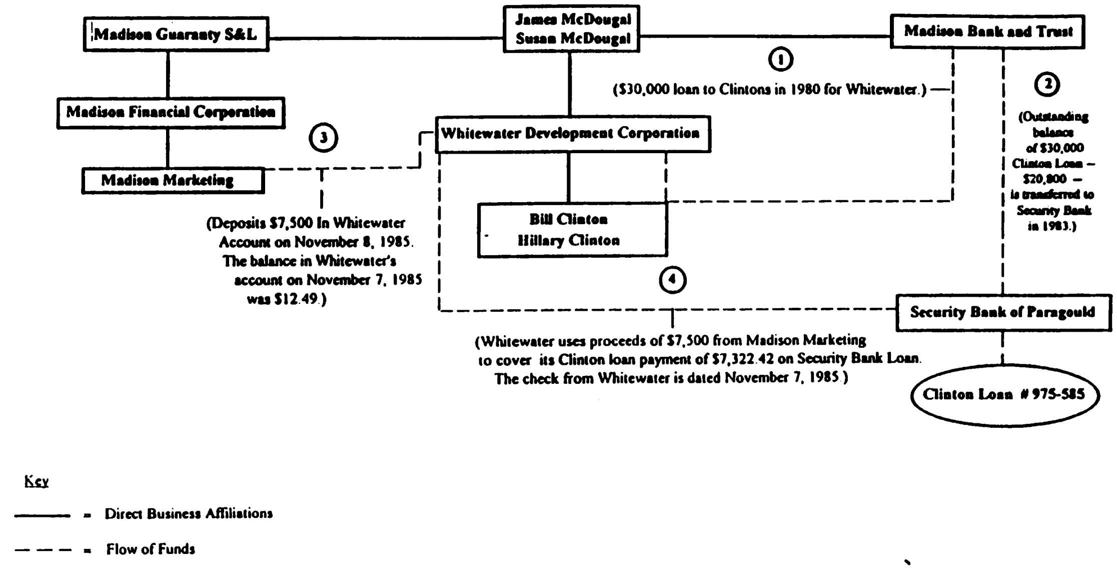
Source: OTS Documents

ASSET GROWTH OF MADISON GUARANTY



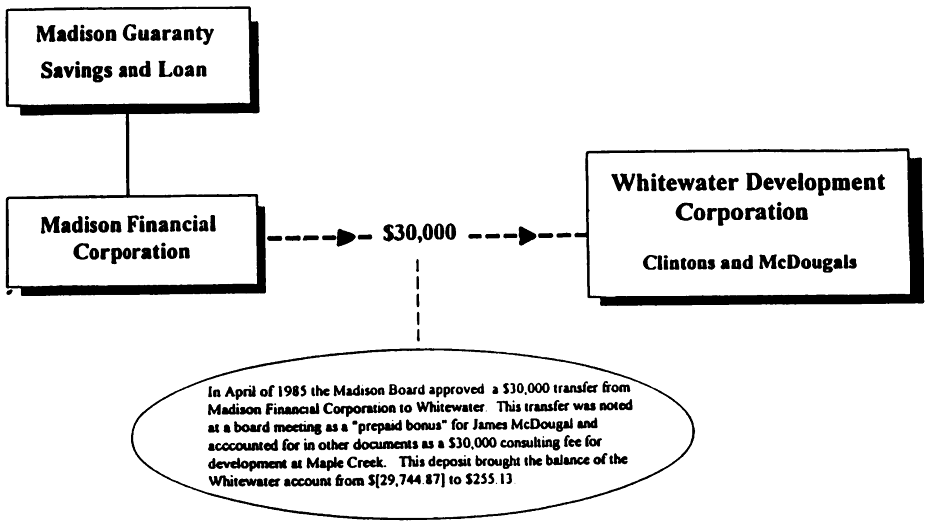
Source: OTS Documents

Payment of Clinton Loan by Madison Related Entity


Madison Guaranty S&L
James McDougal
Susan McDougal
Madison Bank and Trust
①
($30,000 loan to Clintons in 1980 for Whitewater.)
②
(Outstanding balance of $30,000 Clinton Loan – $20,800 – is transferred to Security Bank in 1983.)
Madison Financial Corporation
③
Whitewater Development Corporation
Madison Marketing
Bill Clinton
Hillary Clinton
(Deposits $7,500 In Whitewater Account on November 8, 1985. The balance in Whitewater's account on November 7, 1985 was $12.49.)
④
Security Bank of Paragould
(Whitewater uses proceeds of $7,500 from Madison Marketing to cover its Clinton loan payment of $7,322.42 on Security Bank Loan. The check from Whitewater is dated November 7, 1985.)
Clinton Loan # 975-585
Key
= Direct Business Affiliations
= Flow of Funds

Source Whitewater Development Corporation check ledgers /Whitewater Development Corporation cancelled checks

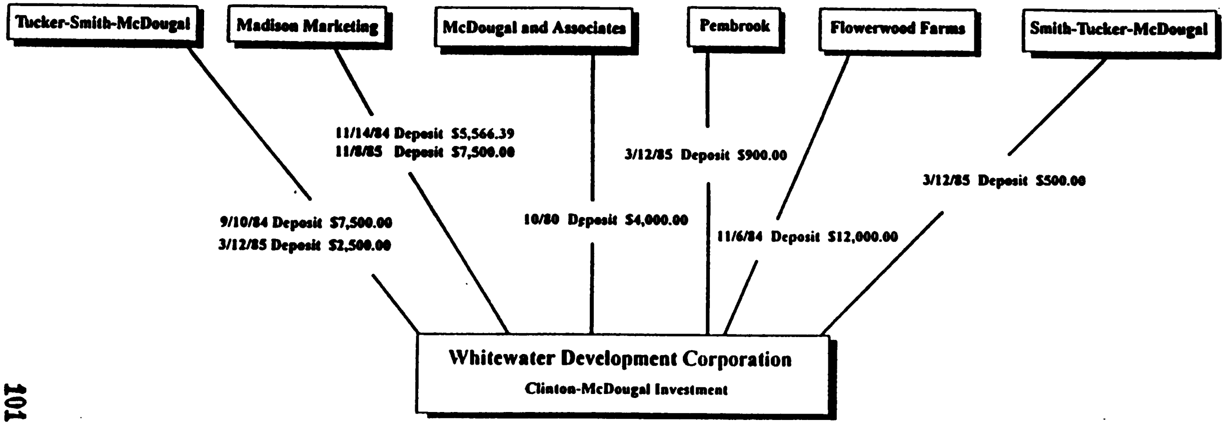
Funds from Madison Financial Corporation to Whitewater


Madison Guaranty
Savings and Loan
Madison Financial
Corporation
$30,000
Whitewater Development
Corporation
Clintons and McDougals

In April of 1985 the Madison Board approved a $30,000 transfer from Madison Financial Corporation to Whitewater. This transfer was noted at a board meeting as a "prepaid bonus" for James McDougal and acccounted for in other documents as a $30,000 consulting fee for development at Maple Creek. This deposit brought the balance of the Whitewater account from $[29,744.87] to $255.13.

Source. Resolution Trust Corporation records

Funds Transferred from Madison Related Entities to the Whitewater Development Corporation


Tucker-Smith-McDougal
Madison Marketing
McDougal and Associates
Pembrook
Flowerwood Farms
Smith-Tucker-McDougal
11/14/84 Deposit $5,566.39
11/8/85 Deposit $7,500.00
3/12/85 Deposit $900.00
3/12/85 Deposit $500.00
9/10/84 Deposit $7,500.00
3/12/85 Deposit $2,500.00
10/80 Deposit $4,000.00
11/6/84 Deposit $12,000.00
Whitewater Development Corporation
Clinton-McDougal Investment

Source: Whitewater Development Corporation check ledgers covering approximately 52 transactions in the years 1980, 1983, 1984 and 1985. These transactions between Whitewater and Madison related entities are derived from a sparse number of check ledgers obtained by the Minority.

MINUTES OF MEETING

BOARD OF DIRECTORS

MADISON FINANCIAL CORPORATION
April 17, 1985

The Board of Directors of Madison Financial Corporation met on April 17, 1985, at 1:00 p.m. at the offices of Madison Financial Corporation at 16th and Main Streets, Little Rock, Arkansas. All directors were present. The minutes of the previous meeting were read and approved as recorded.

The first order of business, introduced by John Latham, was the matter of authorizing prepayment of Jim McDougal's bonus. After a full discussion, the following resolution was unanimously adopted, with Jim McDougal abstaining from the voting:

> "RESOLVED, that the Corporation pre-pay to Jim McDougal $30,000.00 of his annual bonus in recognition of the profits of the prior year, and that said bonus is to be paid directly to Whitewater Development."

There being no further business, the meeting was adjourned.

James B. McDougal
Chairman

HENRY B. GONZALEZ, TEXAS, CHAIRMAN

STEPHEN L. NEAL, NORTH CAROLINA
JOHN J. LAFALCE, NEW YORK
BRUCE F. VENTO, MINNESOTA
CHARLES E. SCHUMER, NEW YORK
BARNEY FRANK, MASSACHUSETTS
PAUL E. KANJORSKI, PENNSYLVANIA
JOSEPH P. KENNEDY II, MASSACHUSETTS
FLOYD H. FLAKE, NEW YORK
KWEISI MFUME, MARYLAND
MAXINE WATERS, CALIFORNIA
LARRY LAROCCO, IDAHO
BILL ORTON, UTAH
JIM BACCHUS, FLORIDA
HERBERT C. KLEIN, NEW JERSEY
CAROLYN B. MALONEY, NEW YORK
PETER DEUTSCH, FLORIDA
LUIS V. GUTIERREZ, ILLINOIS
BOBBY L. RUSH, ILLINOIS
LUCILLE ROYBAL-ALLARD, CALIFORNIA
THOMAS M. BARRETT, WISCONSIN
ELIZABETH FURSE, OREGON
NYDIA M. VELAZQUEZ, NEW YORK
ALBERT R. WYNN, MARYLAND
CLEO FIELDS, LOUISIANA
MELVIN WATT, NORTH CAROLINA
MAURICE HINCHEY, NEW YORK
CALVIN M. DOOLEY, CALIFORNIA
RON KLINK, PENNSYLVANIA
ERIC FINGERHUT, OHIO

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
ONE HUNDRED THIRD CONGRESS
2129 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6050

JAMES A. LEACH, IOWA
BILL McCOLLUM, FLORIDA
MARGE ROUKEMA, NEW JERSEY
DOUG BEREUTER, NEBRASKA
THOMAS RIDGE, PENNSYLVANIA
TOBY ROTH, WISCONSIN
ALFRED A. McCANDLESS, CALIFORNIA
RICHARD H. BAKER, LOUISIANA
JIM NUSSLE, IOWA
CRAIG THOMAS, WYOMING
SAM JOHNSON, TEXAS
DEBORAH PRYCE, OHIO
JOHN LINDER, GEORGIA
JOE KNOLLENBERG, MICHIGAN
RICK LAZIO, NEW YORK
ROD GRAMS, MINNESOTA
SPENCER BACHUS III, ALABAMA
MIKE HUFFINGTON, CALIFORNIA
MICHAEL CASTLE, DELAWARE
PETER KING, NEW YORK

BERNARD SANDERS, VERMONT

(202) 226-4247

February 3, 1994

Mr. Roger C. Altman
Interim CEO
Resolution Trust Corporation
801 17th Street, NW
Washington, DC 20434

Dear Mr. Altman:

I am in receipt of your February 1, 1994 response to the letter initiated by Senate Republican leadership concerning Madison Savings and Loan and I am pleased to learn that the RTC "will vigorously pursue all appropriate remedies" with regard to Madison's failure. It seems self-apparent that in order for the RTC to pursue vigorously all remedies it must have all relevant information at its disposal. Accordingly, I urge the RTC to seek and review all Whitewater Development Corporation documents turned over by the White House to the Justice Department.

In its investigation of Madison, the Minority has uncovered links between Madison and Whitewater, some of which may have contributed to the thrift's failure. Not only did James and Susan McDougal hold significant ownership interest in both entities (approximately two thirds in Madison and one half in Whitewater), but the other joint owners of Whitewater (Bill and Hillary Clinton) appear to have benefited directly and indirectly from the application of Madison resources. [See the attached memo.]

If the White House chooses to use the Justice Department to shield Whitewater documents not only from the public and Congress, but from other government agencies, such as the RTC, which have legitimate public law enforcement responsibilities, it is hard to believe a responsible resolution of the issues involved can be made by regulatory authorities.

I have high regard for your personal integrity, but as you know, from the beginning, it has been an awkward situation to have a presidentially appointed and confirmed officer of the Treasury Department also head an independent federal agency, the Resolution Trust Corporation (RTC). When this prospect was first suggested at the beginning of the Clinton Administration, it did

not strike the Minority as overly unreasonable for a month or two given the fact that no RTC head had been selected.

However, it has been over a year since the Administration has been in office and it can only be described as structurally unseemly for a political appointee of an Executive branch department to make what are in effect, law enforcement decisions for an independent federal agency as they may touch upon the President.

Accordingly, I would urge that you request from the Department of Treasury's General Counsel and Ethics Office advice as to whether you, as interim CEO of the RTC, are obligated to recuse yourself from any decisions concerning the resolution of Madison Guaranty. Just as the special counsel law was designed to relieve the Attorney General from an ethical dilemma of being both chief law enforcement officer for the nation and chief legal advisor to the President in circumstances when the President or a high level Administration officer is the subject of investigation, so it would appear ethically questionable for a political appointee of the Department of Treasury to make decisions for an independent federal agency when the President may be implicated in enforcement and civil actions.

In this regard, it should be clear that the issue is not whether a presidentially appointed official can oversee an investigation involving the President. Rather the issue is that officials with this responsibility should be confirmed for the job with that particular accountability. As you will recall it was a political appointee confirmed by the Senate that issued a cease and desist order for engaging in conflicts of interest against the son of a former President.

As you know, despite your strong letter to the Chairman of the House Banking Committee recommending against extension, Congress last year extended the statute of limitations for civil lawsuits brought against S&L wrongdoers. As you pointed out in your most recent letter, this extension "has afforded the RTC an opportunity to investigate further any civil claims which may be asserted against individuals or entities associated with Madison Guaranty for fraud, intentional misconduct resulting in unjust enrichment, or intentional misconduct resulting in substantial loss to the institution." Given, however, the impending running of the statute of limitations for certain kinds of actions, time is clearly of the essence for the RTC to make judgments about civil accountability in the failure of Madison.

Finally, I would like to reiterate my request, pursuant to Rules X and XI of the House Rules for all documents related to Madison Guaranty Savings and Loan, Little Rock, Arkansas. As you know,

on December 9, 1993, I wrote the RTC requesting access to all documents related to Madison Guaranty and its subsidiaries.

House and Committee Rules, House practices, and judicial precedent support the proposition that the Ranking Minority Member is the functional counterpart to the Chairman for Committee action. This being the case, a request for documents made by the Ranking Minority Member has parallel standing with a request made by the Chairman of the Committee. The Ranking Minority Member clearly has a voice in the process and is entitled to information that will enable the Ranking Minority Member to carry out his constitutionally mandated oversight responsibilities.

Therefore, the courtesy of a definitive reply to this document request is requested by 12 noon, Monday, February 7, 1994. On this matter, it is urged that you also consult with the Ethics Office as to the relevance of the previously discussed recusal issue.

Again, let me stress that to the degree a conflict situation may exist in this matter in no way reflects on your personal integrity. It is simply an awkward circumstance in contrast to a personal embarrassment.

Sincerely,

JAMES A. LEACH
Ranking Member

JAL:gp

Enclosure

MEMORANDUM

TO: Congressman Leach

FROM: Banking Minority Staff

RE: Madison Guaranty ("Madison")

In reviewing documents related to Madison in the possession of Minority Banking, we have come across material which may indicate direct payment of a loan of Bill Clinton's by Madison through a subsidiary.

Since the Minority's investigation is concerned with the possible misuse of federally insured funds to assist Whitewater and/or the former Governor, we thought we should share the following information with you.

SUMMARY

Based on documentary evidence available to the Minority, it appears that Madison Marketing served, in at least one instance, as a conduit of funds from Madison Guaranty to Whitewater and Governor Clinton. If this is correct, it would appear that insured funds from the failed Madison Guaranty were diverted and directly benefitted the Governor and his investment in Whitewater, a claim Clinton had denied.

DOCUMENTATION

- In 1983, Bill Clinton obtained a loan from Security Bank of Paragould, Arkansas for approximately $20,800 (loan #975-585, Bill Clinton). The money from this loan was used to pay off the remaining balance of a loan at Madison Bank and Trust of Kingston, Arkansas that was provided for the purpose of constructing a modular home on lot #13 at Whitewater Estates. The loan at Madison Bank was provided in 1980 to Hillary Clinton in the amount of $30,000.
- On November 8, 1985, James McDougal sent a letter accompanied by a check to Charles Campbell, Vice President of Security Bank of Paragould, for $7,322.42. The letter from McDougal states that the check is principal and interest payment on "Note #957-585, Bill Clinton." [Note: It appears that the loan number is a typographical error with the superimposing of numbers 5 and 7 in the first three digits.]

7071

Release of grand jury docs?
to Fiske?

ADDITIONAL SUPPORTING DOCUMENTATION

STATEMENT OF THE HONORABLE JAMES A. LEACH
INDEX OF SUPPORTING DOCUMENTS[1]
MADISON GUARANTY SAVINGS AND LOAN
MARCH 24, 1994

1. Notes of Conversation between L. Jean Lewis and April Breslaw, February 2, 1994. "(T)he 'head people', would like to be able to say that Whitewater did not cause a loss to Madison, but the problem is that so far no one has been able to say that to them." Describes losses to Madison caused by Whitewater.

2. Board of Directors Minutes, Madison Financial Corporation, April 17, 1985. "RESOLVED, that the Corporation pre-pay to Jim McDougal $30,000.00 of his annual bonus in recognition of the profits of the prior year and that said bonus is to be paid directly to Whitewater Development."

3. Application for Registration of Fictitious Name, Applicant -- Madison Financial, Fictitious Name -- "Madison Marketing" (July 25, 1986).

4. Chronology of Criminal Investigation.

5. Letter of September 1, 1992 from L. Richard Iorio (RTC-KC) to Steve Irons (FBI) transmitting criminal referral.

6. Letter of September 1, 1992 from L. Richard Iorio (RTC-KC) to Charles A. Banks (DOJ) transmitting criminal referral.

7. RTC Internal Memorandum, May 3, 1993. Background remarks and conversation with AUSA Bob Roddey's office re: Madison Guaranty Savings referral.

8. RTC Internal Memorandum, May 19, 1993. Additional conversation with Office of Legal Counsel for U.S. Attorney's, U.S. Justice Department, Washington, D.C. No record of Madison criminal referral at Washington DOJ.

9. RTC-KC E-Mail, May 19, 1993. Madison matter forwarded to Donna Henneman in "Legal Counsel." Referral submitted to that office "because of the political ramifications and political motivations."

10. RTC-KC E-Mail, May 26, 1993. Follow-up call from Donna Henneman (DOJ). RTC advised by an FBI agent in Little Rock that it was a "very solid case of check kiting, and was highly prosecutable." Henneman was growing increasingly frustrated by the situation, because she had seen the information, knew that it had come in, and couldn't understand why she was

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[1] Previously unreported information relating to the prosecutorial strategy of criminal referrals has been redacted.

having such a hard time tracking where the referral and exhibits had gone.

11. RTC-KC E-Mail, June 8, 1993. Conversation with Donna Henneman (DOJ). Madison Referral has reappeared on her desk. Criminal Division has sent memo to Doug Frazier (in Depty Atty General Heyman's office) advising him that there was "no identifiable basis for recusal of the U.S. Attorney in the Eastern District of Arkansas." Referral sent to Frazier for review and final decision.

12. RTC-KC E-Mail, June 23, 1993. Conversation with Donna Henneman (DOJ). Package returned from Frazier. Frazier appointed U.S. Attorney in Florida.

13. RTC-KC E-Mail, June 23, 1993. Further Conversation with Donna Henneman (DOJ). Spoke with Doug Frazier. Decision made to return the referral back to the Arkansas U.S. Attorney. No basis for recusal.

14. RTC-KC E-Mail, June 29, 1993. Source indicates Madison referral has been returned to Little Rock. Acting U.S. Attorney will not act on referral. It is being held until U.S. Attorney designee Paula Casey takes office.

15. RTC-KC E-Mail, September 23, 1993. Conversation with Donna Henneman (DOJ). Washington DOJ would like to be copied on all future transmittal letters concerning Madison referrals with an additional one paragraph summary of the content of the referrals with the transmittal letters, so that Henneman will be aware of those with "sensitivity issues."

16. RTC-KC E-Mail, September 29, 1993. Conversation with Donna Henneman (DOJ). DOJ would like copies of all future Madison referrals sent to Washington in addition to sending to U.S. Attorney in Little Rock. Henneman will confirm this in writing.

17. RTC-KC E-Mail, September 29, 1993. Conversation with Donna Henneman (DOJ). Washington DOJ withdrawing request for referrals to be sent directly to Washington, but would still like copies of transmittal letters with addendum summary paragraph.

18. RTC-KC E-Mail, October 26, 1993. Conversation with FDIC-Memphis concerning Exam Reports.

19. RTC-KC E-Mail, October 27, 1993. Conversation with Donna Henneman (DOJ). Inquiry on whether declination letter had arrived from Little Rock U.S. Attorney.

20. Letter of October 27, 1993 from Paula J. Casey (U.S. Attorney)

to L. Jean Lewis (RTC). Declination letter on the Madison referral.

21. Letter of November 1, 1993 from L. Jean Lewis (RTC) to Paula J. Casey (U.S. Attorney). Confirmation of declination letter and the stipulation from October 27th letter that the matter was concluded prior to the beginning of Paula Casey's tenure and that the RTC had never been advised of such result. Chronology of correspondence between RTC and DOJ.

22. RTC-KC E-Mail, November 10, 1993. Notice of new RTC lead investigator on Madison. L. Jean Lewis removed as lead investigator. "The Powers That Be have decided that I'm better off out of the line of fire ..."

23. RTC-KC E-Mail, November 15, 1993. Transmittal of white paper outlining chronology of events related to 1992 Madison referral. Challenges news article indicating that decision to decline Madison referral had been prior to Paula Casey's appointment.

24. RTC-KC E-Mail, November 15, 1993. Discussion of meeting with Donald MacKay. "He's coming here to evaluate us, our work, and to try and decide just how good this case is, and how he can best deal with a very sensitive political situation."

25. Letter of December 21, 1993 from Michael Caron (RTC) to Bill Houston (FDIC-Memphis). Seeking information on banks involved in loan swapping.

26. RTC-KC E-Mail with attachment, January 6, 1994. Discussion of contact with reporter.

27. RTC Memorandum of January 14, 1994 from Jack Ryan to RTC Vice Presidents and Assistant Vice Presidents. Requirement that the collection and distribution of all information and material responsive to requests concerning Madison be coordinated through RTC-Washington.

28. RTC-KC E-Mail, January 25, 1994. Establishment of Madison review team.

29. RTC-KC E-Mail, February 7, 1994. Conversation with Little Rock U.S. Attorney's office. "(H)e'd spoken to Jeff Gerrish recently, and that Gerrish was 'absolutely astounded' that nothing more was ever done criminally with Madison, beyond the Castle Grande transaction.

30. RTC-KC E-Mail, January 5, 1994. RTC Washington review of Madison investigators. Response memo from supervisor stating, "FYI. This is way out of line. I have already contacted WDC and filed a formal complaint."

31. Letter of October 10, 1983 from C.J. Giroir, Jr.(Rose) to James B. McDougal. Pursuant to discussion with Hillary Clinton enclosing a billing for Madison Bank & Trust dated December 23, 1981.

32. Memorandum to Governor Bill Clinton from Jim McDougal, February 7, 1985. "Kathy called yesterday to ask for my recommendations for two people to fill the vacancies on the State Savings and Loan Board. ... Bill, we are down to only about 15 state-chartered savings and loan institutions and I am about the only one around who has any interest in this board."

33. Letter of December 12, 1984 from James B. McDougal (Whitewater Development Co.) to Ron Proctor (Citizens Bank). "I have been unsuccessful in trying to meet with Bill and Hillary to sign the vote renewal. I have forwarded to them by messenger this morning the note and an envelope with which to forward it to you. Each month we will deposit into our account at Flippin an amount sufficient to cover the monthly payment."

34. Memorandum to John Latham from Jim Mcdougal, April 18, 1985. "I want this preferred stock matter cleared up immediately as I need to go to Washington to sell stock."

35. Memorandum to John Lathan from Jim McDougal, February 19, 1985. "Proceed with your idea on the subordinated notes. We need to make a decision an Madison Bank & Trust."

36. Memorandum to John from Jim, January 7, 1985. "You, Greg, and I need to discuss Securities License. First South has one on by its Service Corporation."

37. Memorandum to John Lathan from Jim McDougal, July 11, 1985. "I need to know everything you have pending before the Securities Commission as I intend to get with Hillary Clinton within the next few days."

1

Notes from the conversation between RTC Senior Criminal Investigator L. Jean Lewis and FDIC Attorney April Breslaw on February 2, 1994, from approximately 3:50 p.m. until 4:35 p.m.

- April stated that "the people at the top" keep getting asked about Whitewater, which seems to have become a catch all phrase for Madison and it's related investigations. She said that eventually "this group" is going to have to make a statement about whether or not Whitewater caused a loss to Madison, but the fact that Whitewater had no loan at Madison provided less potential for a loss. April stated very clearly that Ryan and Kulka (?), the "head people", would like to be able to say that Whitewater did not cause a loss to Madison, but the problem is that so far no one has been able to say that to them. She felt like they wanted to be able to provide an "honest answer", but that there were certain answers that they would be "happier about, because it would get them off the hook."

- April felt that it would have been difficult to determine exactly what happened with the Whitewater account, because so many checks had gone in and out of the account, and made a reference to the end resulting netting itself out. She asked about Greg Young's work papers on the Maple Creek Farms reserve for development analysis, and how it didn't seem to have any apparent tie to Whitewater. I concurred that it didn't have any legitimately defined tie, which is precisely why it was included in the referral.

- She inquired about the $30,000 check to Jim McDougal from Whitewater in 5/85, and about the disposition of the funds. I explained the transaction as I know it: the $30,000 had been converted to a MGS&L cashier's check, which was subsequently endorsed by [redacted] and deposited to Riggs National Bank. I explained that when the check was force paid, the Whitewater account was overdrawn by over $28,000 which was then subsequently covered by the payment of a $30,000 bonus from MFC to Jim McDougal, deposited directly to Whitewater on McDougal's orders.

- She asked how we could get to a clear cut answer as to whether or not Whitewater caused a loss to Madison. I stated that, as far as I am concerned, there is a clear cut loss. I also stated that any attempt to extract Whitewater as one entity from the rest of the McDougal controlled entities involved in the alleged check kite will distort the entire picture. I further pointed out that I would produce the answers that were available, but that I would not facilitate providing "the people at the top" with the "politically correct answers just to get them off the hook".

- She asked questions about the specifics of the checks going through the Whitewater account. I stated that it appeared that the majority of the checks written out of the Whitewater account during the window time frame were going to other financial institutions to make loan payments. I also said that the referral focused only on a short time frame, but that if that same research were conducted for a two year period, it was my belief that the losses to Madison from the Whitewater account alone would easily exceed $100,000, given that $70,000 had gone out of the account during the six month window time frame. I further added that the end loss result from the entire scam, using all 12 companies/entities, would be hundreds of thousands of dollars in what were essentially unauthorized loans.

- I stated that if she wanted me to tell her, unequivocally, that Whitewater didn't cause a loss, I could not do that. I could only reiterate the allegations contained in the referral, which are based on fact, and that it is my opinion and belief that Whitewater did, in fact, cause a loss to Madison because of the amount of the unauthorized loans that McDougal made, through the check kite, to entities in which he was a primary party and beneficiary. I also pointed out that this ultimately benefited his business partners - the same business partners that knew they had real estate ventures that were not cash flowing, but that also knew their mortgages and/or notes were somehow being paid. I pointed out that these business partners are intelligent individuals, the majority of them being attorneys, who must have concluded that McDougal was making the payments for their benefit. I posed the question to her, if you know that your mortgages are being paid, but you aren't putting money into the venture, and you also know the venture isn't cash flowing, wouldn't you question the source of the funds being used to your benefit? Would you just assume that your partner was making these multi-thousand dollar payments out of the goodness of his heart? Wouldn't you wonder even more if you knew that your business partner's main source of income, an S&L, was in serious financial difficulty, which by 1985 was fairly common knowledge?

We discussed the initiation of the MGSL investigation, and how evidence of the check kite came to light. I explained that after reviewing a series of checks, all of which noted "loan" in the memo field, I discerned a pattern that looked like a check kite, and proceeded to trace funds through the various accounts, which is a standard investigations procedures. The end result was the referral alleging a massive check kite. I also advised April that I had been told by both the U.S. Attorney's office (Mac Dodson), and the FBI (Steve Irons) that this was a highly prosecutable case of check kiting. I also told her that I disputed the declination of that referral on the basis of "insufficient information". She commented that "that's what Grand Juries are for", and I pointed out that it generally seemed to be the policy of the U.S. Attorney to agree to open a case before they would start Grand Jury proceedings. I also noted that I found the treatment of that particular referral by the Justice Department to be highly unusual. This concluded our discussion.

②

MINUTES OF MEETING

BOARD OF DIRECTORS

MADISON FINANCIAL CORPORATION
April 17, 1985

The Board of Directors of Madison Financial Corporation met on April 17, 1985, at 1:00 p.m. at the offices of Madison Financial Corporation at 16th and Main Streets, Little Rock, Arkansas. All directors were present. The minutes of the previous meeting were read and approved as recorded.

The first order of business, introduced by John Latham, was the matter of authorizing prepayment of Jim McDougal's bonus. After a full discussion, the following resolution was unanimously adopted, with Jim McDougal abstaining from the voting:

> "RESOLVED, that the Corporation pre-pay to Jim McDougal $30,000.00 of his annual bonus in recognition of the profits of the prior year, and that said bonus is to be paid directly to Whitewater Development."

There being no further business, the meeting was adjourned.

James B. McDougal
Chairman

7079

State of Arkansas

OFFICE OF THE SECRETARY OF STATE

3

APPLICATION FOR REGISTRATION OF FICTITIOUS NAME

FILED

JUL 25 1986

W. J. "BILL" McCUEN
SECRETARY OF STATE
BY

To: W.J. "Bill" McCuen
Secretary of State
State Capitol
Little Rock, Arkansas 72201-1094

Pursuant to the provisions of Section 95 of the Arkansas Business Corporation Act, (Act 576 of 1965), the undersigned corporation hereby applies for the registration of the use of a fictitious name and submits herewith the following statement:

1) The fictitious name under which the business is being, or will be conducted by this corporation is:
Madison Marketing

2) The character of the business being or to be conducted, under such fictitious name is:
advertising and public relations

3) a) The corporate name of the applicant
Madison Financial Corp.

b) The State of incorporation is:
Arkansas

c) The location (giving city and street address) of the registered office of the applicant corporation in Arkansas is:

Street 2124 First Commercial Building
City Little Rock,
State AR

4) The applicant states that if it is a foreign corporation that it is admitted to and authorized to do business in the State of Arkansas.

5) The filing fee in the amount of $10.00 is enclosed.

Name of Applicant Corporation:

Madison Financial Corporation

Signature: James B. McDougal, PRESIDENT

Address: P O Box 1583, Little Rock, AR 72203

SEAL

ATTEST:
SECRETARY

INSTRUCTIONS:

Prepare this form in duplicate, send to Secretary of State's Office, State Capitol, Little Rock, Arkansas. Duplicate copy will be returned to the corporation and must be filed with the County Clerk, (not required in Pulaski County) of the County in which the Corporation's registered office is located.

10210

4

CRIMINAL INVESTIGATIVE CHRONOLOGY OF EVENTS

3/09/92
to
3/23/92

Madison Guaranty Savings & Loan ("MGSL") and it's alleged ties to Whitewater Development Corporation ("Whitewater") and Bill & Hillary Clinton were reported in a 3/8/92 New York Times article by Jeff Gerth. MGSL owner and board chairman, James B. McDougal, had been previously tried and acquitted on bank fraud charges in 6/90.

Inquiries regarding these ties emanated from both RTC Investigations in Washington, D.C., and the former Director of the Tulsa Consolidated Office. The Washington inquiry went through the Kansas City Regional Investigations Office to the Tulsa Consolidated Investigations office, who was responsible for investigating failed Arkansas thrifts. The question was raised as to whether Whitewater's relationship with MGSL had been reviewed, and were there any resulting losses or potential criminal activity documented. As a result of this inquiry, the Tulsa office criminal investigator assigned to the Arkansas thrifts was asked to work with the civil investigator in reviewing the completed investigative findings to date. Over a two week period, the criminal investigator reviewed all thrift records obtained from the institution at the time of conservatorship which were stored in the Tulsa office. These records included the available Board Minutes, committee and subsidiary minutes, Fidelity Bond policies, FHLB exams from prior years, outside audits, legal correspondence files and various limited loan files. No mention was found of any Whitewater relationship with MGSL.

3/25/92
to
4/15/92

During this time frame, Tulsa Investigations learned that a former MGSL employee, subsequently (and still) an attorney in the employment of a Little Rock law firm handling extensive litigation in Arkansas for the RTC, had allegedly fabricated at least two years of minutes for an MGSL subsidiary, Madison Financial Corporation ("MFC"). The criminal investigator was asked to review daily records created by the former employee, who was at that time the executive assistant to former MGSL president, John Latham. Latham pled guilty to one charge of bank fraud in 1989. Copies of the former employee's records had been shipped to Tulsa, where it would be determined if further investigation was appropriate. An affirmative decision was reached during the first week of 4/92. While this review was being conducted, the civil investigator was reviewing additional Madison records stored in Little Rock under the control of the post-receivership assuming bank, Central Bank & Trust ("CB&T"). These records, which had never been inventoried by either MGSL or CB&T, were stored in a downtown Little Rock warehouse, and included, but were not limited to, former officer correspondence, legal files, subsidiary land development and investment files, microfilm, demand deposit (checking) account records/binders, cancelled checks, etc.

Based on the findings of these concurrent criminal and civil investigative reviews, the decision was made that both investigators should travel to Little Rock for a more extensive review of the warehoused documents. At this point, the criminal investigation, which had been previously scheduled for late 1992, was rescheduled to 4/92.

4/20/92
to
4/24/92

The investigators conducted an extensive review of the warehoused records, and the criminal investigator talked with the FBI and U.S. Attorney's office regarding the 1990 trial of former MGSL owner James B. McDougal. The criminal investigator learned that the FBI was previously aware of the fabricated subsidiary minutes and had taken no criminal action. Tulsa Investigations management was advised accordingly and that aspect of the review was suspended.

The warehoused records revealed additional Whitewater checking account statements, raising further questions about the payee's on some of Whitewater's checks. A number of documents belonging to the former Chief Financial Officer of MGSL/MFC were located. Among these documents were several accountant/ledger worksheets on numerous MFC subsidiary land "developments", all of which were heavily subsidized by MGSL. Included in one of the development worksheets marked "Maple Creek Farms" was an item denoting a $30,000 charge to Whitewater for the cost of an engineering survey; this was the first indication of a relationship between MGSL and/or MFC and Whitewater beyond the existence of the Whitewater checking account. Original microfilm, along with pertinent original documents from the warehouse, were sent back to Tulsa for further investigation. Research was conducted on twelve McDougal and/or McDougal business partner controlled accounts, including Whitewater. Check copies were produced for a two year period between 6/84 and 6/86; a standard investigative procedure when tracing the flow of funds.

5/1/92
to
7/15/92

During the first week of 5/92, all Tulsa Consolidated Office employees were advised that the Tulsa office would be permanently closing at the end of 7/92. All Tulsa Investigations records were shipped to the Kansas City Office, thus putting the Madison investigation on hold. The copy process on the McDougal and/or McDougal business partner controlled accounts was suspended as well, due to equipment and records relocation.

8/1/92
to
9/2/92

The criminal investigator transferred to the Kansas City office at the end of 7/92, resuming the analysis of Madison documents and checks. A criminal referral (#C0004) was subsequently generated alleging a $1.5 million check kiting scheme between the McDougal and/or McDougal business partners controlled entities, including Whitewater. This referral was submitted to the FBI and U.S. Attorney, Eastern District of Arkansas on 9/2/92.

9/3/92
to
12/15/92

Having submitted the initial referral on MGSL, the criminal investigator redirected priorities to the ongoing investigations of three other failed thrifts, which were intensifying. First Federal Savings, Paragould, Arkansas, which was reaching suspect plea negotiations, First America Savings, Ft. Smith, Arkansas, which had been referred from jurisdiction in the Western District of Arkansas to the Dallas Bank Fraud Task Force, and Cimmaron Federal Savings, Muskogee, Oklahoma, for which investigations had received an allegation of potential fraud from the managing agent. Throughout these investigations, the criminal investigator continued to request and monitor a response on MGSL referral #C0004.

12/15/92
to
3/14/93

The U.S. Attorney's office did not offer any standard response to the MGSL referral, advising either that a case would be opened or that prosecution would be declined, for three months. In response to numerous calls from the criminal investigator during that time, the Little Rock FBI Special Agent in Charge sent a letter of acknowledgement to the RTC stating that both the FBI and U.S. Attorney had received the referral and exhibits. The investigator continued to work on the aforementioned institutions while continuing to monitor a potential response on the MGSL referral.

3/15/93
to
5/4/93

The criminal investigator initiated a preliminary review of criminal activity at Savers Savings, Little Rock, Arkansas, out of which a former borrower had been convicted and sentenced in conjunction with a failed Texas S&L. This review involved extensive interviews with

	the borrower, and a review of his personal and corporate records prior to his sentencing and incarceration in late 4/93. The investigator continued to make verbal requests for a written response from the FBI or U.S. Attorney on MGSL referral C0004.
5/4/93 to 5/25/93	On 5/4/93, the criminal investigator sent a letter to the U.S. Attorney inquiring about the status of the referral. The response from the U.S. Attorney referred the investigator to the U.S. Justice Department in Washington D.C. The criminal investigator initiated a series of calls to DOJ/Washington to ascertain the status of the referral. Simultaneously, the criminal investigator, criminal investigations department head and the field investigations officer determined that the most expedient way to complete the investigation of previously defined criminal allegations at MGSL was to supplement the investigative manpower.
5/31/93 to 6/4/93	Three additional criminal investigators were assigned the task of reviewing loan transactions, checking accounts and subsidiary lending transactions to ascertain the level of criminal activity at both MGSL and MFC. The lead investigator, along with another task assigned investigator, returned to the Little Rock warehouse for further document review. The investigators additionally travelled to four other counties to review land records pertaining to property sales, loan and mortgages reflected in the County Clerk's offices. Those findings were shared with the other assigned investigators.
6/5/93 to 10/8/93	The four investigators reviewed and analyzed all available MGSL transactional information for the ensuing 120 days. As a result, nine additional criminal referrals involving multiple MGSL and MFC transactions were generated and submitted to the U.S. Attorney and FBI on 10/8/93.
10/17/93	The lead criminal investigator received a letter from the new U.S. Attorney for the Eastern District of Arkansas, Paula J. Casey. The letter stated that referral #C0004, submitted 9/2/92, had been declined due to "insufficient information".
11/1/93 to 1/24/94	RTC Criminal investigations continues to support the investigative efforts of the FBI and U.S. Attorney by providing MGSL and MFC documents warehoused in Kansas City, and offering assistance with ongoing subpoena compliance.

The responsibility for investigation of all failed Arkansas thrifts was assumed by the Tulsa RTC Office of Investigations during the first quarter of 1991. Responsibility was assumed from the Eagan/Minneapolis RTC Office of Investigations; the lead Eagan investigator for Madison Guaranty Savings, Little Rock, Arkansas at that time was Mike Hammerly.

When the Tulsa office assumed this responsibility, Madison Guaranty was assigned to civil Investigator Wyatt Adams. Shortly after the reassignment of the Arkansas thrifts, several members of the Tulsa Office of Investigations made a sweep through the failed Arkansas shops and appropriated all the records deemed necessary for the effective completion of both civil and criminal investigations.

In mid summer 1991, Investigator Wyatt Adams traveled to Little Rock to review Madison Guaranty records held by the acquiring entity, Central Bank and Trust, in an old, non-climate controlled building downtown on the river, which had been converted to a "records storage" facility. According to Adams, when he arrived there were extensive records in poor condition, haphazardly heaped into the storage space on the second floor, which was poorly lit and protected by a chain link fence and a padlock. Boxes were on their sides with records dumped out, DDA binders were poorly stacked in one corner, and multiple boxes had been shoved into shelving, with no identifiable inventory. It should be noted that these records were already in the warehouse at the time of the Investigations team Spring 1991 "sweep" through the Arkansas thrifts, and that the former Managing Agent concurs that, to his knowledge, there was no inventory of these records.

In July 1991, the criminal investigation of Madison Guaranty was assigned to Investigator Jean Lewis. A follow-up criminal investigation was tentatively slated to begin during the third quarter of 1992, due to the fact that former thrift owner James B. McDougal had previously been tried on Bank Fraud charges stemming from Madison Guaranty, and was acquitted in 1990. The follow-up investigation was intended to ensure that any remaining potential criminal matters had been properly reviewed and addressed.

In March 1992, Senior Investigative Specialist Jon Walker contacted the Kansas City regional RTC office regarding an article that had appeared in the New York Times stating possible ties between Whitewater Development, Madison Guaranty Savings and Loan, and Bill & Hillary Clinton. Personnel in the KC regional office then contacted the Tulsa office with a request that this issue be reviewed to determine if Investigations was aware of, had reviewed and/or appropriately addressed matters pertaining to the possible relationship between Whitewater Development and Madison Guaranty.

After a review of all available Tulsa Investigations inventory documents, Investigators Adams and Lewis were detailed to the warehouse in Little Rock to review the remaining Madison records and ensure that nothing had been overlooked with regard to any potential action on this matter. Investigator Lewis noted, with concurrence from Adams, that upon arrival that the records were in very poor condition, appeared to have been dumped and/or crammed into the warehouse space, and that there was no available inventory provided by Central Bank & Trust personnel which could identify the nature of these records. Investigator Adams noted that this was the same condition in which he'd found the records in 1991. Boxes had to be rearranged in order to establish work space and room for a table and two chairs.

During the review of these records, neither Investigator Adams or Lewis located any loan files and loan records relating specifically to Whitewater Development or the Clintons. Investigator Adams then went through a number of Demand Deposit Account binders, to ascertain if Whitewater had maintained a checking account at Madison Guaranty. He located an account and statements for 1984, 1985 and 1986. Investigator Lewis reviewed multiple boxes of records, and recovered several documents from former thrift officer files that warranted further review. Among those documents was a ledger sheet marked "Reserve for Development - Maple Creek Farms" from the records of former Madison CFO Greg Young. On that ledger sheet was noted a $30,000 development reserve cost for an engineering survey charged to Whitewater Development. There was also a limited amount of microfilm located at the warehouse, which was appropriated under the terms of the P&A Agreement and returned to Tulsa along with several DDA binders, with permission from Central Bank & Trust. A signed receipt containing an itemized list of the documents taken by Investigators Adams and Lewis was left with [redacted] of CB&T.

Prior to departing Little Rock, Investigators Adams and Lewis reviewed the Madison daily work film held by Central Bank & Trust to research the flow of funds through the Whitewater account as pulled from the monthly statements, which is a standard operating procedure for Investigations. Several checks payable to the Bank of Cherry Valley which identified loan numbers, were identified and copied from the daily work. Also copied were numerous check payable to entities entitled Pembroke Manor, Rolling Manor, Madison Marketing and others, all of which were signed by James or Susan McDougal, payable to Whitewater Development and contained the notation "loan" in the memo field on the check. Accounts were located and reviewed for these other identified entities; similar checks containing the "loan" notation were found to have been paid between the entities. At that time, both investigators concurred that additional research would be appropriate, and requested all available film relating to Madison Guaranty and returned it to Tulsa, leaving a receipt for the film, binders and original documents pulled from former office files with CB&T employee Bonnie Crocheron. Copies of the entity statements and checks were pulled and/or duplicated from film for the years 1984, 1985 and 1986. [redacted]

After the original film was duplicated, the duplicates were returned to Central Bank & Trust for their retention, and the original film was retained in Tulsa by an RTC research contractor. The criminal investigation of Madison then continued, as the civil claims had previously been closed out by PLS.

In conjunction with the ongoing Madison investigation, Kansas City Investigators Jean Lewis and Randy Knight traveled to Little Rock in 5/93 to revisit the Madison records held in the downtown warehouse. Upon arrival Investigator Lewis immediately noted the condition of the records was significantly more organized than it had been during the previous visit, and it was evident that a number of boxes had been cleared out.

During this visit to the warehouse, Investigator Lewis learned from the storage facility attendant that the law firm of Mitchell, Selig, Jackson, Tucker & White, former general counsel to Madison Guaranty Savings, also stored records at the warehouse.

A number of the remaining boxes were reviewed, and the keys returned to [redacted] at Central Bank & Trust. At that time, Investigator Lewis noted to [redacted] that the warehouse seemed to lack a number of boxes that had previously been there, and [redacted] advised that some of the records had been retrieved and were being held in a back room at the bank (CB&T). When asked why this had not been disclosed when the keys had been picked up rather than returned, Ms. Crocheron's response was "you didn't ask."

It should be noted that, according to the US Attorney's staff in Little Rock, [redacted] to Madison and was summoned before the Grand Jury for testimony. The outcome of that investigation has never been disclosed to this office.

In conjunction with the ongoing FBI investigation of the RTC's referrals, Investigations advised the FBI that additional original Madison Guaranty microfilm, along with the records at the warehouse, were under the control of Central Bank & Trust. It is the understanding of Kansas City Office of Investigations—that the aforementioned records have now been subpoenaed by the U.S. Attorney's office and are now under the control of the Little Rock FBI. The original Madison film held by Investigations has also been turned over to the FBI along with other records subject to Grand Jury Subpoena.

RTC
Resolution Trust Corporation
Kansas City Consolidated Office
4900 Main Street, P.O. Box 419570
Kansas City, Missouri 64141 (816) 531-2212 (800) 365-3342

5

September 1, 1992

Mr. Steve Irons, Supervisory Special Agent
White Collar Crime Unit
Federal Bureau of Investigation
Two Financial Centre, Suite 200
P.O. Box 21370
Little Rock, Arkansas 72221

Re: #7236 Madison Guaranty Savings & Loan
Little Rock, Arkansas - In Receivership (11/29/90)
CRIMINAL REFERRAL NUMBER C0004

Dear Sir:

Certain matters have come to our attention which may constitute criminal offenses under Federal law. Enclosed is a report of an Apparent Criminal Irregularity.

Information in this referral may have been derived from financial records of customers of federally insured financial institutions. I hereby certify that (A) there is reason to believe that these records may be relevant to a violation of Federal criminal law, and (B) the records were obtained in the exercise of the RTC's supervisory or regulatory functions.

Due to the extensive nature of the exhibits relating to this referral, they are being submitted to the U. S. Attorney's office under separate cover at a later date.

Please direct any inquiries to the Investigator identified on the referral form, or to Lee O. Ausen, Department Head/Criminal Investigations, Kansas City Consolidated Office.

Sincerely,

L. Richard Iorio

L. Richard Iorio
Field Investigations Officer

Enclosure

6

RTC
Resolutio: ust Corporation
Kansas City Consolidated Office
4900 Main Street, P.O. Box 419570
Kansas City, Missouri 64141 (816) 531-2212 (800) 365-3342

September 1, 1992

The Honorable Charles A. Banks
United States Attorney
Eastern District of Arkansas
U.S. Post Office and Courts Building
600 W. Capitol, Room 331
P.O. Box 1229
Little Rock, Arkansas 72203

Re: #7236 Madison Guaranty Savings & Loan
Little Rock, Arkansas - In Receivership (11/29/90)
CRIMINAL REFERRAL NUMBER C0004

Dear Sir:

Certain matters have come to our attention which may constitute criminal offenses under Federal law. Enclosed is a report of an Apparent Criminal Irregularity.

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Sincerely,

L. Richard Iorio

L. Richard Iorio
Field Investigations Officer

Enclosure

MEMORANDUM

7

TO: Criminal Admin File

FROM: Jean Lewis
Criminal Investigator

DATE: May 3, 1993

RE: Background remarks and conversation with AUSA Bob Roddey's office re: Madison Guaranty Savings referral

In March 1993, shortly after the departure of former U.S. Attorney Chuck Banks, I was advised by AUSA Bob Roddey on an unofficial basis, that Banks had forwarded the "Madison referral" to Justice in Washington D.C. almost immediately after receiving it last September; Roddey also added that Banks had taken this action as the referral was "politically hot".

I contacted Roddey's office early this afternoon to see if AUSA Floyd Mac Dodson was still with the U.S. Attorney's office, of if he had left with Chuck Banks. I was advised by Roddey's secretary, Laura, that Dodson did, in fact, leave with Chuck Banks, and she offered me their number, which I declined. I asked her what would have happened to Dodson's cases, and she offered to "check the computer" and call me back, if I could give her a specific case, which I did, identifying Madison Guaranty Savings criminal referral # C0004.

Approximately five minutes later, Laura called back and advised me that no record of that referral showed up in their computer system; she then advised me that in conversing with AUSA Roddey, he told her that Banks had sent it to Justice in Washington, and that "we'd probly never hear about it again".

A letter inquiring about the status of the referral has been prepared to send to U.S.A. Pence later today.

cc: Richard Iorio
Lee Ausen

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MEMORANDUM

TO: Criminal Admin File

FROM: Jean Lewis

DATE: May 19, 1993

RE: Additional conversation with Office of Legal Counsel for U.S. Attorney's, U.S. Justice Department, Wash., D.C.

In following up my previous discussion with the Office of Legal Counsel on May 13, I contacted Dyone Mitchell (secretary) of that office to see if she had been able to determine the status of the Madison referral, as I had not heard back from her. She consulted her notes and advised me that they "have no record of that referral, it is not in their computer system, it has not been given to an attorney"; upon repeating this response to her, she reiterated "no ma'am, that referral has not been submitted to this office."

After advising Lee Ausen and Richard Iorio of this conversation, the decision was made to resubmit the referral through the U.S. Attorney's office in Little Rock, and contact Ms. Mitchell in the Office of Legal Counsel to see if that office should be copied on the referral and letter to Richard Pence, U.S. Attorney in Little Rock. I contacted Ms. Mitchell again to inquire as to whether that office should be copied on the referral. She said yes, and when I asked to whose attention it should be directed, she responded that it should be sent to Acting Assistant Attorney General Daniel Koffsky, as the Assistant Attorney General, Mr. Dellinger, has not yet been confirmed.

The letter of re-submission will be prepared this afternoon, with a copy going to Mr. Koffsky's attention.

cc: Richard Iorio
Lee Ausen

[illegible]
[illegible] NW.
[illegible]

9

To: L. Richard Iorio@Investigations@RTCKCMID
Cc: Lee O. Ausen@Investigations@RTCKCMID
Bcc:
From: L. Jean Lewis@Investigations@RTCKCMID
Subject: #7236/Madison Guaranty Savings
Date: Wednesday, May 19, 1993 15:55:03 CDT
Attach:
Certify: Y
Forwarded by:

In following up on the suggestion that Mr. Daniel Koffsky, Acting Assistant Attorney General, be sent a copy of Madison referral # C0004, I contacted the Office of Legal Counsel to verify the correct address. In speaking with Dyone Mitchell of that office, I reiterated the address provided by US Atty Richard Pence, which reads:

Office of Legal Counsel
Executive Office for the U. S. Attorneys
U. S. Justice Department
Washington, DC 20530

The letter provided the phone number (202) 514-2041.

Ms. Mitchell advised that the Office of Legal Counsel and the Executive Office or the U. S. Attorney's were two separate sections, and that the referral may ave been forwarded to the Executive Office instead of Legal Counsel. She hen connected me with the operator, who put me through to the Executive ffice where I spoke with Stephanie Kennedy. I explained to Ms. Kennedy what was looking for, and she said she would get back to me this afternoon.

he called me back at 3:30, and advised that she had forwarded the matter on o Donna Henneman in "Legal Counsel", who would check it out and call me back omorrow. I then contacted Ms. Henneman to offer background information on hat I was looking for. When I explained that it was a referral out of adison Guaranty, forwarded to that office by Chuck Banks, she had immediate nowledge, stating "oh, the one involving the President and his wife". She hen stated that the referral had been sent to that office (exactly which ffice is still unclear to me) as a special report for the attention of the ttorney General, and not as a referral for prosecution. She then stated that "anytime a referral comes in that would make the department look bad, or has olitical ramifications, it goes to the Attorney General." She further added hat the referral had been submitted to that office "because of the political amifications and political motivations", and then told me that referrals were ot prosecuted out of that office. She then stated that the referral had been eclined. I advised her that the referral had not been declined, and read her he letter sent to this office by U.S. Attorney Richard Pence. She cknowledged that she was confused, and told me she would speak with her upervisor, Deborah Westbrook, and have her call me back tomorrow. I then sked for Ms. Henneman's title, and she informed me that she was the Ethics rogram Manager. I thanked her and ended the conversation.

'll keep you posted if and when I hear from Ms. Westbrook.

To: L. Richard Iorio@Investigations@RTCKCMID
Cc: Lee O. Ausen@Investigations@RTCKCMID
Bcc:
From: L. Jean Lewis@Investigations@RTCKCMID
Subject: #7236/Madison Guaranty
Date: Wednesday, May 26, 1993 16:10:47 CDT
Attach:
Certify: Y
Forwarded by:

10

I've just received a follow-up call from Donna Henneman at Justice in D.C. She informed me that after speaking with Deputy Director/EO Wayne Rich she learned that referral #C0004 had been sent to former Special Counsel Ira Raphelson. I noted that Mr. Raphelson is now in private practice, she concurred and said that she wasn't sure where it had gone after he left, but that she was going to call the "criminal fraud division at Justice" and see if they are prosecuting the case or if a declination letter has been issued. I restated that, to my knowledge, the referral had not been declined, and that I had been advised by an FBI agent in Little Rock that it was a "very solid case of check kiting, and was highly prosecutable."

I then identified the [redacted] suspects named in the referral [redacted] for her reference, and she thanked me and told me she'd be back in touch as soon as she found something. She also stated that she was growing increasingly frustrated with the situation, because she had seen the information, knew that it had come in, and couldn't understand why she was having such a hard time tracking where the referral and exhibits had gone.

To date, each time she has given me a date that she would call back, she has kept her word. I'll let you know when I hear from her again.

⑪

o: L. Richard Iorio@Investigations@RTCKCMID
c: Lee O. Ausen@Investigations@RTCKCMID
Bcc:
rom: L. Jean Lewis@Investigations@RTCKCMID
ubject: Madison Guaranty
ate: Tuesday, June 8, 1993 15:16:49 CDT
ttach:
ertify: Y
orwarded by:

s we discussed this morning, I was going to contact Audrey Word at DOJ in
ashington this afternoon; however, before I could call, Donna Henneman in the
xecutive Office for U.S. Attorney's called me. It seems that Madison
eferral # C0004 has reappeared on her desk. Audrey Word was successful in
ocating the referral within the Fraud section of the Criminal Division and
etermined that the individual assigned to the referral "didn't want to deal
ith it", so she sent the referral and all pertinent info back to Donna
enneman for further disposition.

onna advised me that the Criminal Division (no one specifically identified)
ent a memo to Doug Frazier, Associate Deputy Attorney General (in Depty Atty
eneral Heyman's office) advising him that there was "no identifiable basis
or recusal of the U.S. Attorney in the Eastern District of Arkansas"; this
as a direct quote from the memo, as she read it. She then told me that she'd
ontacted Mr. Frazier who did not remember receiving the memo, and suggested
hat she get the memo and the referral to him for review and a final decision.

he has subsequently sent him both the referral and the memo, and said she'll
eep me posted. I then advised her that during the intervening period,
dditional information has surfaced that would further support the allegations
ontained in the referral, so I would be most curious as to their decision. I
hen concluded the conversation by telling her "whatever the decision is, I
eed something in writing so that I can close out the file with a declination,
r offer support for an ongoing case." She agreed and said she'd stay in
ouch.

'll keep you posted.

12

To: L. Richard Iorio@Investigations@RTCKCMID
Cc: Lee O. Ausen@Investigations@RTCKCMID
Bcc:
From: L. Jean Lewis@Investigations@RTCKCMID
Subject: #7236 Madison Guaranty Savings
Date: Wednesday, June 23, 1993 15:21:55 CDT
Attach:
Certify: Y
Forwarded by:

At approximately 3:00 this afternoon, I spoke with Donna Henneman in the Executive Office for U.S. Attorneys, regarding the status of the Madison referral #C0004. She advised that she had sent the "package" to Associate Deputy Attorney General Doug Frazier on June 8, as we had previously discussed, but that she had received the entire package back on her desk today with no further answers, as Mr. Frazier was now the new U.S. Attorney in one of the Florida districts; she had not determined whether Mr. Frazier had taken any action prior to his departure, and had spoken with her supervisor regarding her next action shortly before I contacted her. She advised that she will attempt to contact Mr. Frazier in Florida sometime tomorrow, and determine what decision, if any, had been made.

She then advised that "this sort of thing happens all the time when we're trying to get the guys upstairs to make a decision." She said she'd be back in touch as soon as she had an answer from Doug Frazier, or his replacement, a Mr. Dave Margolis.

This was the 8th conversation I've had with Ms. Henneman since I first contacted her on May 19, 1993.

'll keep you posted.

o: L. Richard Ioric@Investigations@RTCKCMID
c: Lee O. Ausen@Investigations@RTCKCMID
cc:
rom: L. Jean Lewis@Investigations@RTCKCMID
ubject: #7236 Madison Guaranty Savings
ate: Wednesday, June 23, 1993 15:37:30 CDT
ttach:
ertify: Y
orwarded by:

13

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onna Henneman (EO/US Attorneys) just called me back to let me know she'd poke with former Associate Deputy Attorney General Doug Frazier. He advised er that he met with Tony Muscato, the Director of the Executive Office for .S. Attorney's, and that the decision has been made to return the referral to he U.S. Attorney in the Eastern District of Little Rock, as there was "no asis for the recusal of the U.S. Attorney", and apparently a lack of onflict of interest."

s. Henneman then added that she doubted whether or not the U.S. Attorney, astern District/Arkansas would be aware of this situation yet, but suggested hat I wait a few days and then contact that office in Little Rock.

e asked to be kept posted on the outcome, and offered her continued ssistance whenever and however possible.

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To: L. Richard Iorio@Investigations@RTCKCMID
Cc: Lee O. Ausen@Investigations@RTCKCMID
Bcc:
From: L. Jean Lewis@Investigations@RTCKCMID
Subject: #7236 Madison Guaranty Savings
Date: Tuesday, June 29, 1993 16:08:21 CDT
Attach:
Certify: Y
Forwarded by:

I received a call this afternoon from a highly reliable and confidential source, that the Madison referral (C0004) has been returned to the U.S. Attorney's office in Little Rock, Arkansas. My source has advised me that the acting U.S. Attorney, Richard Pence, has stated he has no intention of acting on this referral, and plans to let it sit until such time as the new U.S Attorney designee Paula Casey, takes office on either an interim or permanent basis. It was stated that there was displeasure at the fact that the referral had been returned to the Little Rock office, and that the reason cited for it's return was that the Executive Office for U.S. Attorney's found no basis for recusal, and no conflict of interest emanating from the U.S Attorney's office in the Eastern District. However, the acting U.S. Attorney is of the opinion that if the (strong) case against James McDougal is taken to trial, it will appear to be "sour grapes" due to his acquittal during his first bank fraud trial.

I was further advised that there is no definite date yet as to when Ms. Casey's confirmation will occur, and that it is likely that she will assume her responsibilities on an interim basis. My source has advised that I will get a "head's up" call when Ms. Casey assumes her new responsibilities, but that such appointments have been delayed in the past, and may take a while.

I'll keep you advised should I Hear anything further.

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To: L. Richard Iorio@INVEST-1@RTCKC
Cc: Lee O. Ausen@INVEST-1@RTCKC
Bcc:
From: L. Jean Lewis@INVEST-1@RTCKC
Subject: #7236 Madison Guaranty Savings
Date: Thursday, September 23, 1993 15:03:56 CDT
Attach:
Certify: Y
Forwarded by:

I've just had a conversation with Donna Henneman, Ethics Program Manager, Executive Office for U. S. Attorneys. I called Donna to make a final determination as to whether or not she wants formal notification of the existence of the subsequent referrals being submitted to the U. S. Attorney, Eastern District of Little Rock, on Madison.

In discussing the standard RTC procedure of the submission of referrals, she has requested that she be copied on the transmittal letters that go to the U. S. Attorney and FBI. At the time she receives the copies of those letters, she will then request the referrals and exhibits from the U. S. Attorney's office for any necessary follow up. So, at her request, I'll ask Donna Minton to cc: Ms. Henneman in her official capacity. She felt that a letter requesting copies at this point was unnecessary, and if it becomes necessary, she will go through her channels at Justice to obtain the documentation from U. S. Attorney Paula Casey. Donna has also requested that I provide a brief one paragraph summary of the content of the referrals with the transmittal etters, so that she will be aware of those with "sensitivity issues." I will be glad to provide the requested summary as an addendum paragraph to the bottom of each transmittal letter.

he then asked me about the final disposition of MGS&L referral C0004. I told er that I had been advised that it was received back in the U. S. Attorney's ffice, but that I had received no formal notification that a case had been pened, nor a declination letter. I expressed my concerns that the same ituation could befall the next referrals to be submitted, and she assured me hat she and her supervisor, Deb Westbrook, would stay closely in touch with he situation, due it's potentially political ramifications, some of which I xplained for her edification.

he asked me to stay in touch as to the responses that I get from the U.S. ttorney's office, and assured me that, if necessary, the "higher-ups" at ustice would make sure something got done with these referrals, including the irst one, which in her words "should have been handled by now, one way or the ther."

ll keep you posted.

16

To: L. Richard Iorio@INVEST-1@RTCKC
Cc: Lee O. Ausen@INVEST-1@RTCKC
Bcc:
From: L. Jean Lewis@INVEST-1@RTCKC
Subject: #7236 Madison Guaranty Savings
Date: Wednesday, September 29, 1993 12:16:43 EDT
Attach:
Certify: Y
Forwarded by:

I've just received a call from Donna Henneman, Ethics Program Manager, Executive Office for U. S. Attorney's, Washington, D. C. She advised that she had spoken to her supervisor, Deb Westbrook, and Ms. Westbrook's supervisor, Doug Frazier, regarding whether or not the Executive Office wanted copies of the madison referrals slated for submission this week. Ms. Westbrook and Mr. Frazier have determined that the Executive office should receive copies of the referrals and exhibits. Upon receipt, they will review them and determine whether to instruct the U.S. Attorney's office to act on them accordingly, or if they should be forwarded to the Public Integrity Section of DOJ for further review. I inquired as to the nature of the Public Integrity Section and was advised that it is the section of DOJ responsible for the prosecution of public officials. Ms. Henneman also advised that they have made the decision to get the Deputy Attorney General's office involved in this situation, and bring them up to speed.

I asked her to submit this request in writing, in order to document the Investigations file and she responded that she would do so, faxing me a letter this afternoon. I've provided her with the fax number and will copy you upon eceipt of her letter.

To briefly summarize the situation to date, I contacted the Executive Office for U. S. Attorney's on May 13, 1993, at the written suggestion of U.S. Attorney Richard Pence, pursuant to his letter of May 10, 1993 regarding my written inquiry as to the final disposition of Madison referral #C0004, submitted on 9/1/92. Mr. Pence advised that the referral had been forwarded to the Executive Office by former U.S. Attorney Charles A. Banks due to what he deemed was a "conflict of interest". This information was relayed to Ms. Henneman during my first conversation with her. During subsequent calls I eceived from Ms. Henneman, she advised me as to her progress in tracking the hereabouts of referral #C0004, which she finally located and had forwarded ack to her office on June 8, 1993. At that time, Ms. Henneman advised me that he decision had been made by personnel in the Criminal Division of DOJ that here was "no identifiable basis for recusal of the U.S. Attorney in the astern District of Arkansas", and that the referral would be forwarded back o the U. S. Attorney's office in Little Rock. Since that time, Ms. Henneman as contacted me to follow up on the final disposition of the referral. I have dvised her that this office has not yet received notification of an opened ase, or a letter declining prosecution. During these aforementioned onversations, the issue was raised as to further referrals, and whether the ecutive Office should be copied on any further referrals to avoid a ecurrence of circumstances. I received notification of that decision today hen Ms. Henneman contacted me, as previously outlined.

lease let me know if you have any questions.

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To: L. Richard Iorio@INVEST-1@RTCKC
Cc: Lee O. Ausen@INVEST-1@RTCKC
Bcc:
From: L. Jean Lewis@INVEST-1@RTCKC
Subject: #7236 Madison Guaranty Savings
Date: Wednesday, September 29, 1993 16:22:55 EDT
Attach:
Certify: Y
Forwarded by:

I've received a follow-up call from Donna Henneman with the Executive Office for U. S. Attorneys. She spoke with her supervisor, Deb Westbrook, regarding my request for a written follow-up to her verbal request that the Executive Office be copied on all the Madison referrals and exhibits. Ms. Westbrook has withdrawn her initial request for copies, and stated that they will go through the U. S. Attorney's office to obtain copies rather than having us copy their office directly. Ms. Henneman indicated that this route would not make the U. S. Attorney's office feel as though the Executive Office was "going behind their back" in requesting copies of the referrals.

She then reiterated that she would like to be copied on the transmittal letters that will be sent with the referrals to the U. S. Attorney and the FBI, with a brief summary paragraph outlining the suspects and content of each referral. I agreed to her request, and will make arrangements to provide the requested summary on the transmittal letters.

I'll let you know if I hear from her again.

18

To: Lee O. Ausen@INVEST-1@RTCKC
Cc: L. Richard Iorio@INVEST-1@RTCKC
Bcc:
From: L. Jean Lewis@INVEST-1@RTCKC
Subject: #7236 Madison Guaranty
Date: Tuesday, October 26, 1993 15:35:28 CDT
Attach:
ertify: Y
Forwarded by:

Just FYI...

Based on our conversation this afternoon regarding the OCC's inability to ocate their past exams for UNB/Little Rock, I took a shot at a hunch, and ade another call to Cristina Flechas, the attorney for the FDIC in Memphis ho had previously advised me (in response to my written request of 6/23) that CC would have been the regulatory agency for UNB during 1986.

ristina, so I have learned, is no longer with the FDIC in Memphis. However, spoke to her successor, Broderick Nichols, and outlined the previous request ith him, asking him if he would do some additional followup just on the off hance that the FDIC might have done a concurrent exam on UNB with OCC at some oint between 1983 and 1987. I then explained to him that the OCC seemed to e having some difficulty in locating their records, and advised him that I as informed by OCC that prior to 1991, UNB was actually First National Bank f Jacksonville. Well, it turns out that Broderick Nichols is from Little ock. What a small world! And he evidently grew up knowing where Union ational Plaza is and that Union National Bank was, and still is, the largest ank in Little Rock. He was somewhat concerned about the fact that OCC ouldn't find their exams, and has offered his expeditious assistance in ocating any concurrent exams done by FDIC. He's also offered to aid me in ocating other potential leads and sources within OCC that might be able to ediscover the whereabouts of the UNB exams. He couldn't quite understand how e OCC could lose a $500 million bank. Does this sound familiar??

ll keep you posted.

19

To: L. Richard Iorio@INVEST-1@RTCKC
Cc: Lee O. Ausen@INVEST-1@RTCKC
Bcc:
From: L. Jean Lewis@INVEST-1@RTCKC
Subject: #7236 Madison Guaranty
Date: Wednesday, October 27, 1993 13:37:23 CDT
Attach:
Certify: Y
Forwarded by:

Just got a call from Donna Henneman, Ethics Program Manager, Executive Office for U.S. Attorneys. She asked if I'd received a declination letter on the first referral (C0004) from the U.S. Attorney in Little Rock. I told her that we had not received a declination to date. She then advised that her supervisor, Deb Westbrook, had evidently had a conversation with U.S. Attorney Paula Casey, and that Ms. Casey stated that she would be sending a declination etter to the RTC on that particular referral. No date was given, and Donna did not reference the date of the conversation between Ms. Westbrook and Ms. Casey. I asked Donna if she knew the basis for the declination, and she esponded that she did not, and hadn't seen a copy of the letter either. She hen suggested that if I do not receive the letter of declination within a airly short time frame, to please let her know.

onna also noted that Ms. Westbrook advised her that USA Casey had stated she ould "deal" with the other referrals as well.

'll keep you posted as to any further calls from Ms. Henneman.

United S Attorney
Eastern L ict of Arkansas

Post Office Box 1229
Little Rock, Arkansas 72203

ATT - 1

20

October 27, 1993

Ms. L. Jean Lewis
Criminal Investigator
Resolution Trust Corporation
4900 Main Street, Suite 200
Kansas City, MO 64112

Re: #7236 Madison Guaranty Savings and Loan
Criminal Referral Number C0004

Dear Ms. Lewis:

I am writing at the request of the Office of Legal Counsel, Executive Office for U.S. Attorneys of the U.S. Department of Justice to let you know the status of this referral.

As you know, this referral was reviewed by the Criminal Division of the U.S. Department of Justice at the request of the previous United States Attorney for the Eastern District of Arkansas. The matter was concluded before I began working in this office, and I was unaware that you had not been told until I was contacted by the Office of Legal Counsel. After receiving the call from Legal Counsel I reviewed the referral, and I concur with the opinion of the Department attorneys that there is insufficient information in the referral to sustain many of the allegations made by the investigators or to warrant the initiation of a criminal investigation.

Although I am declining to take further substantive action on this referral, my decision does not foreclose future prosecutions about the matters covered by the referral or related matters in the event that my office and the FBI are given access to records or information indicating that prosecutable cases can be made.

Sincerely,

Paula J. Casey

PAULA J. CASEY
United States Attorney

cc: Debra Westbrook
Office of Legal Counsel

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

21

November 1, 1993

The Honorable Paula J. Casey
United States Attorney
Eastern District of Arkansas
P.O. Box 1229
Little Rock, Arkansas 72203

Re: #7236 Madison Guaranty Savings & Loan
Criminal Referral Number C0004

Dear Ms. Casey:

I have received your October 27, 1993 letter regarding the above captioned thrift and referral. On the basis of comments contained within your letter, I am interpreting that correspondence as a formal declination to prosecute referral #C0004. You stipulated in your letter that this matter was concluded prior to the beginning of your tenure as the United States Attorney for the Eastern District of Arkansas. Prior to the receipt of your letter, RTC Investigations was not advised that the matter had been formally concluded.

Between September 1, 1992 and today's date, this office has received a total of three letters with regard to the aforementioned referral, including your letter of declination. The other two letters were from FBI/SAC Don Pettus, 12/15/92, acknowledging receipt of the referral, and from Acting United States Attorney Richard Pence, 5/10/93, advising this office that he was unaware of the referral status as it had been forwarded to the Executive Office for United States Attorney's by former United States Attorney Chuck Banks.

If there were other documents produced that are relative to the conclusion of this matter, I would appreciate receiving the appropriate copies.

The RTC Kansas City Office of Investigations will continue it's policy of cooperation with both the United States Attorney's office and the FBI on all referral related and investigative matters, making all pertinent records accessible as requested.

Should you have any further questions, or if this office may be of further assistance, please do not hesitate to contact me at (816) 968-7237, or if I am unavailable, Supervisory Investigator Lee Ausen at (816) 968-7243 or Field Investigations Officer Richard Iorio at (816) 968-7212.

Very truly yours,

L. Jean Lewis
Senior Criminal Investigator

cc: Debra Westbrook/Office of Legal Counsel
L. Richard Iorio/Field Investigations Officer/KCO
Lee Ausen/Supervisory Investigator/KCO

4900 Main Street, Suite 200, Kansas City, Missouri, 64112, (816)531-2212

22

To: Jane M. Jankowski@OLA@RTCKC
Cc: L. Richard Iorio
Lee O. Ausen
Michael X. Caron
Bcc:
From: L. Jean Lewis@INVEST-1@RTCKC
Subject: re: madison guaranty
Date: Wednesday, November 10, 1993 13:24:34 CST
Attach:
Certify: N
Forwarded by:

Hey you! Just a heads up to let you know that Mike Caron, Senior Criminal Investigator, is now the lead investigator on Madison...so anymore faxes you send should come to Mike's attention, and any further communication about Madison should go to him, too. The Powers That Be have decided that I'm better off out of the line of fire (and I ain't arguing), but please let me assure you, that we are leaving you in very capable hands! Got any questions beyond that, ask Lee or Richard...

o: James R. Dudine@Oper-inv@RTCDC
Dennis M. Cavinaw@EXEC@RTCKC
James G. Thompson@EXECFSC@RTCKC
A. Bowen Hinton@OLA@RTCKC,Jane M. Jankowski@OLA@RTCKC
c:
cc: L. Jean Lewis@INVEST-1@RTCKC
rom: L. Richard Iorio@INVEST-1@RTCKC
ubject: Madison Guaranty
ate: Monday, November 15, 1993 11:26:54 CST
ttach: WHITEPAP.MAD
ertify: N
orwarded by:

23

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n Thursday, November 11, 1993, there was an article that appeared in the ashington Post concerning declination of prosecution on the first Madison eferral that was transmitted to the Department of Justice (DOJ) on August 31, 992.

ontained in the article was information that the referral had been reviewed y DOJ and that a decision had been made early on to decline on this referral nd that when Paula Casey US Attorney, Little Rock, Arkansas, in fact issued ne declination in October 1993, she was simply bringing this matter to a lose.

ne document attached clearly refutes this train of thought. In fact, it ppears that no thorough review of the document had been conducted as late as une 23, 1993, some ten months after the referral had been initially ransmitted. It was not until September 29, 1993 that this office was advised nat the referral would be reviewed.

nis whole issue might not be important, however, for purposes of credibility ith regard to the RTC's efforts in this area, this memo and attachment are ubmitted for factual clarity.

RTC Criminal Referral #C0004 on Madison Guaranty Savings was completed on August 31, 1992, signed by RTC Kansas City Investigations management on September 1, 1992, and sent via certified mail on September 2, 1992, to Charles A. Banks, U.S. Attorney, Eastern District of Arkansas, and SSA Steve Irons, FBI, Little Rock.

By early November 1992, no standard written response of prosecution or declination had been forthcoming from the U.S. Attorney's office. In mid November 1992, the lead criminal investigator made the first of a number of verbal requests to both the U.S. Attorney and FBI in Little Rock for some form of written acknowledgement that the referral had been received and reviewed. A written acknowledgement dated December 15, 1992, from FBI SAC Don K. Pettus, was received by the lead criminal investigator on January 4, 1993. This acknowledgement stated that the referral had been received, and that further questions should be directed to AUSA Floyd Mac Dodson, who had also received the referral and exhibits. On January 7, 1993, the lead investigator had a conversation with AUSA Mac Dodson in which he advised that he wasn't sure the referral was still in the U.S. Attorney's office in Little Rock, and that if prosecution occurred, it would probably be through a special attorney sent to Little Rock to handle the situation.

For four months, there was no further communication or correspondence received by Investigations on this matter. In a May 3, 1993, conversation between Investigations and the U.S. Attorney's office, it was indicated that referral #C0004 had been "sent to Justice in Washington almost as soon as it was received last September". On May 4, 1993 Investigations sent a written inquiry to Acting U. S. Attorney, Richard M. Pence, requesting the status of the referral. On May 12, 1993, Investigations received a letter from Mr. Pence (dated May 10, 1993) stating that former U.S. Attorney Charles Banks had determined that his office had a conflict of interest with conducting an investigation or prosecuting criminal charges relating to referral #C0004, and had sent the referral and exhibits to the Office of Legal Counsel ("OLC"), Executive Office for U.S. Attorney's, U. S. Justice Department, Washington D. C. He stated that any further inquiries as to the status of the referral should be directed to that office, providing a phone number in Washington D. C.

As suggested by Mr. Pence, the lead investigator called the OLC on May 13, 1993. This initiated a series of 15 phone calls between the OLC and Investigations; 10 taking place between May 13 and June 29, 1993, and five transpiring between September 23 and October 27, 1993. The majority of these calls were incoming to Investigations, and provided information as to the progress being made with regard to locating and determining the status of the referral.

The June 23, 1993 conversation between Investigations and OLC indicated that the decision had been made to return the referral to the U.S. Attorney in Little Rock as there was "no basis for recusal of the U. S. Attorney" and apparent "lack of conflict of interest." During a conversation on September 23, the OLC inquired as to the "final disposition" of referral #C0004. They were advised by Investigations that no formal notification had been received of either a declination or intent to prosecute. Investigations then advised OLC that there were additional referrals pending; OLC then requested that Investigations remain in contact with the OLC regarding further communication from the U. S. Attorney in Little Rock.

On September 29, 1993, the OLC contacted Investigations and advised that 1) the Deputy Attorney General's office had been advised of the situation and 2) that the pending and prior referrals would be reviewed and a decision made as to whether or not they be forwarded to the Public Integrity Section of Justice and reviewed for potential prosecution. A verbal request was then made by OLC that they be copied on the transmittal letters to the U. S. Attorney accompanying the new referrals, and that they be further provided with a summary of each referral.

The nine new referrals were submitted to the U. S. Attorney and FBI in Little Rock on October 8, 1993. On October 13, 1993, the Office of Legal Counsel was provided with copies of the transmittal letters, and the requested summaries on each referral.

On October 27, 1993, Investigations received a call from OLC inquiring as to whether or not Investigations had received a declination letter on referral #C0004; the response was "no." Investigations was advised that U.S. Attorney Paula Casey had advised the OLC that she would be sending a letter of declination to RTC Investigations.

On November 1, 1993, Investigations received a letter dated October 27, 1993, from U.S. Attorney Paula Casey stating that the disposition of referral #C0004 had been concluded prior to her taking office, and that she "concurred with the opinion of the Department attorneys that there is insufficient information... in the referral to warrant the initiation of a criminal investigation."

On November 11, 1993, RTC Investigations learned through an article in the Washington Post, that Paula Casey had recused herself and her staff from any further dealing with the Madison referrals.

24

To: Lee O. . .sen@INVEST-1@RTCKC
Cc:
Bcc:
From: L. Jean Lewis@INVEST-1@RTCKC
Subject:
Date: Monday, November 15, 1993 17:27:58 CST
Attach:
Certify: N
Forwarded by:

A few comments with regard to our conversation this afternoon about the pending meeting with Donald Mackay and his staff on 11/22.

You know, Richard knows, Donohue knows, Mike knows, and I know that Mackay is not coming here to look at records. Cut to the bottom line. He is coming here because he wants to be convinced that there either IS or IS NOT a very good case behind those referrals. He isn't coming specifically to discuss subpoena compliance, because he hasn't opened any cases yet. He's coming here to evaluate us, our work, and to try and decide just how good this case is,
ınd how he can best deal with a very sensitive political situation. What
ʼould be easiest for him is to decide that, after meeting with RTC
nvestigations, he can conclude that there is no merit, and has
ccordingly advised Investigations that the matter will be dropped. If we
on't convince him that those referrals are exceptionally solid, well prepared
nd supportable cases, then there is very little doubt that he will dispense
ith this situation in very short order.

ːgardless of stated agenda, and regardless of whether or not I'm in
:tendance, he's going to try and make an objective assessment based on what
presented to him during the meeting. If that's the way the meeting starts
t, then you better pull out all the stops to support the work we've done, or
at's the last we'll hear of the Madison investigation. That's my instinct
lking, and so far, it's been pretty much on target.

:hael is extremely knowledgable about Madison, and very capable of handling
situation. I would not do him the injustice of thinking otherwise. But
ernal political crap notwithstanding, if this meeting is going to turn into
urkey shoot, then you are going to need every loaded gun you've got to
ist you in convincing this special prosecutor that the case is as good as
looks on the surface. And yes, we have strong documentation to support
allegations. But what's beneath the surface, including where we looked
why, who's tied to who, who's in business with who, who got paid for what
where all the internal and external ties are, isn't in writing. It's in
ıead.

had my say. The decision is up to you and Richard.

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

25

December 21, 1993

Mr. Bill C. Houston, Regional Director
Division of Supervision
Federal Deposit Insurance Corporation
5100 Poplar Avenue, Suite 1900
Memphis, Tennessee 38137

Re: Bank [redacted]
[redacted]

The Bank [redacted]
[redacted]

Dear Mr. Houston:

The Resolution Trust Corporation's ("RTC") Kansas City Office of Investigations is currently conducting an investigation into matters relating to an insolvent Little Rock, Arkansas savings & loan. Significant evidence points to the possibilities of loan "parking", loan "swapping", insider abuse and collaboration between specific borrowers and the principals of the Bank[redacted], financial institutions in [redacted], [redacted] and Little Rock, Arkansas including the aforementioned insolvent thrift. In order to expedite this investigation, I would appreciate your assistance in providing this office with copies of the Reports of Examination ("ROE") from 1983 through the most recent exam for the above captioned institutions.

This written request is made pursuant to the terms of the Agreement Regarding Confidential Information between the FDIC and RTC, as signed by FDIC General Counsel Alfred J. T. Byrne and RTC General Counsel Gerald L. Jacobs, effective January 1, 1992.

Should you have any questions or require additional information, please do not hesitate to contact me at (816) 968-7191. Your expedited attention to this matter is appreciated.

Very truly yours,

Michael E. Caron

Michael E. Caron
Senior Criminal Investigator
Office of Investigations

cc: L. Richard Iorio/Field Investigations Officer/KCO
Lee Ausen/Supervisory Investigator/KCO

4900 Main Street, Suite 200, Kansas City, Missouri, 64112, (816)531-2212

To: Jane M. Jankowski@OLA@RTCKC
L. Richard Iorio@INVEST-1@RTCKC
Lee O. Ausen@INVEST-1@RTCKC
Michael X. Caron@INVEST-1@RTCKC
Cc:
Bcc:
From: L. Jean Lewis@INVEST-1@RTCKC
Subject: [redacted]
Date: Thursday, January 6, 1994 18:12:05 CST
Attach:
Certify: Y
Forwarded by:

26

'his is just to advise that earlier this evening, I received a call from [redacted], who started out her call with "I've been lied o by the Justice Department". I advised her that I could not offer any omment, but that I would listen to what she had to say.

he stated that her sources from DOJ, who were there during the end of the ush Administration, had advised her that the original RTC referral was taken uch more seriously than the public has been led to believe, and that while ney believed that the Clinton's definitely stood to benefit from the alleged neck kiting activities, they may not have had serious criminal culpability. ney also advised her that the referral was left in Little Rock to prosecute y former USA Chuck Banks, because for Washington to be involved would look too political." She said that they (her four DOJ sources) all told her that nere was no basis for recusal, and no conflict of interest in Little Rock.

ne then advised that Justice sources today informed her that it was line taff attorneys in the Criminal section of DOJ/DC that decided the referral arranted no further investigation, and instructed Paula Casey to decline.

ne also noted that her previous DOJ sources had said that after the Clinton iministration came into Washington, there were roadblocks put up around this eferral, and that it had been their opinion that the RTC staff was attempting o do a legitimate job, but was being stymied by personnel at Justice for some eason. She asked me if it was true that the Clinton's were named as tnesses on the referral; I declined comment. She asked me if it was true at the RTC had not been notified for months after the referral was allegedly eclined by the staff attorneys in DC; I declined comment.

told her that she would have to call you (Jane) in Public Affairs for any ditional information, and she advised me that she'd already talked to you, d got no information. She stated that she understood that I was in a fficult position, for which I thanked her, and the conversation ended.

found what she had to say very interesting. In the future, I'll comply with chard and Lee's wishes that I not even listen to what a reporter has to say, d just offer a no comment. However, when someone starts out with "I've en lied to by the Justice Department", it's human nature to wonder whether not its true.

us endeth the lesson.

January 6, 1993

This document is a recap of a phone call that I just received from [redacted], reporter [redacted], whose opening comment was "I've just been lied to by the Justice Department." My comment was that I would not be able to respond to any of her questions, but that I was fascinated by the fact that she thought she'd been lied to, so I would listen to what she had to say.

She outlined her credentials, stating that she'd written a book on drug trafficking, and had covered the "peanut loans", Bert Lance, Billy Carter, Jimmy Carter and the major governmental agencies during the Carter administration.

She'd been advised that I was the investigator on the case, and wanted to know which of the stories she'd been told by her sources at Justice were correct. Evidently, she had four former Justice sources who were there during the Bush administration, and that had been there when Chuck Banks sent the referral to Washington. The story they told her was as follows:

- The referral was originally sent to DC as an "urgent report" for the Attorney General's review, due in part to the political sensitivity of some of the identified names, stating that Banks felt his office had a confict of interest. (This coincides with what my letter from Richard Pence states, and what Donna Henneman told me during our many conversations on the whereabouts of the referral). There are conflicting stories about why Keeney wrote the memo referenced in the Schmidt/Isikoff story of 1/5; her sources stated that when the RTC referral was reviewed at Justice, it was taken much more seriously than the public has been led to believe, and that they believed that the Clinton's stood to benefit from the check kite although they may not have had serious criminal culpability. She asked if it was true that the Clinton's were named as witnesses on the referral; I told her no comment.

  She said that her former Justice sources advised her that Banks had never recused himself, and that CID/DOJ DC left the referral in Little Rock and told Banks to prosecute, because 1) there was no conflict of interest, 2) there was no basis for recusal, and 3) that for Washington to get involved would "look to political" since it was right before and after the '92 election. Her sources also indicated that DOJ now seems to be deliberately making it look like the referral was "vague" and "ambiguous", and not to be taken seriously.

  She stated that her sources told her that it appeared that the RTC folks were legitimately trying to do their job, and had legitmate concerns relating to the allegations contained the referral, but that when the Clinton administration came in, somebody started putting up roadblocks on the referral, and her sources didn't know where it was coming from.

- Her current Justice sources state that it was the line staff attorneys in CID/DOJ DC that made the decision several months ago that the referral warranted no further investigation, and instructed Paula Casey to decline accordingly; however, the RTC wasn't notified for months, which should have been corrected.

[redacted] went on to ask several questions, all of which I replied I could not answer, and referred her Public Affairs and Jane Jankowski. She stated that she'd already talked to Jane, and that it had gotten her nowhere. She asked if I knew anyone else that she could talk to, or if anyone that had left the RTC would have any information. I stated that there were no names that I could give her other than Jane Jankowski in Public Affairs. She then asked me if it was true that the RTC had not been notified of the referral declination for several months after it had been allegedly declined, and I told her no comment.

She said that she understood that I was in a difficult position, and but that she needed all the help she could get. I thanked her for understanding the difficultly of my position, advised her that I understood that she was only trying to do her job as a professional, but that I could not professionally or ethically make any comment about the investigation. She offered her phone numbers, which I did not write down. She thanked me for my time, and hung up.

My overall impression of this conversation was that she is very close to the heart of this story, and that she is almost on top of the "white paper" chronology outlining the sequence of events and communication between DOJ and RTC on C0004.

Lee Ausen was present for the entire conversation that I had with [redacted], and suggested to me shortly before the conversation ended that I terminate the call with a "time out" gesture. He and Richard Iorio both advised that if she included anything in her story regarding that fact that I'd even listened to what she had to say, it would look bad for the RTC, and recommended that in the future, I not even listen to what a reporter has to say.

I advised them both that I felt that listening to what [redacted] had to say provided valuable information, and that there was no point in being rude to the press, anymore than there was any point in being rude to Justice or the FBI. "No comment" does not have to be offensive. I further stated that I would never do anything to undermine that efforts that the RTC has made, or take any action that would question our credibility or integrity, let alone do anything to compromise the investigation on which I have spend the past two years as the lead investigator.

I concurred that in the future, I would simply send the reporters to Public Affairs. However, I am very much inclined to believe that, on the basis of my personal, and documented, knowledge of what transpired during the conversations I had with Donna Henneman of DOJ/Office of Legal Counsel/Ethics section, that [redacted] is not far from the truth: it's beginning to sound like somebody, or multiple "somebodies" are trying to carefully control the outcome of any investigation sorrunding the RTC referrals, and that the beginnings of a cover-up may have already started months ago.

27

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

cc: LA SL MC

1-19-94

January 14, 1994

Field VPs:
W. Dudley
D. Wisnewski
R. Sammons
A. Felton
J. Lomax
J. Massac
J. Karlson
J. Densmore
S. Koopmans
J. Cavinaw
J. Thompson
J. Hambrie III

MEMORANDUM

To: Vice Presidents
Assistant Vice Presidents

From: Jack Ryan
Deputy CEO

Re: Madison Guaranty Savings and Loan Association

The RTC has received numerous requests for information on Madison Guaranty Savings and Loan Association and related matters. Interim CEO Roger Altman is committed to responding to these requests as promptly and thoroughly as possible.

In order to assure that the RTC's response to requests on these matters is thorough, accurate, and timely, I have established a working group to coordinate the collection and distribution of all information and material responsive to the requests. The working group is comprised of James Dudine, William Collishaw, and Peter Knight.

I am sure that I can count on the full cooperation of you and your staff with the working group. Please see that this memorandum is distributed to the appropriate staff.

COPY TO:
JMC
GAP
JW
JN
KORF
LK
JW
RI
BHINTON
DSWISS

801 17th Street, N.W. Washington, D.C. 20434

28

o: L. Richard Iorio@INVEST-1@RTCKC
c: Dennis M. Cavinaw@Assets-fa@RTCDC
3cc:
rom: James R. Dudine@Oper-inv@RTCDC
ubject: Madison Guaranty
ate: Tuesday, January 25, 1994 14:18:27 CST
ttach:
ertify: N
orwarded by: L. Richard Iorio@INVEST-1@RTCKC

---

omments by: L. Richard Iorio@INVEST-1@RTCKC
orwarded to: Lee O. Ausen@INVEST-1@RTCKC
ichael X. Caron@INVEST-1@RTCKC
. Jean Lewis@INVEST-1@RTCKC
enneth W. Foust@INVEST-1@RTCKC
ary M. Davidson@INVEST-1@RTCKC
arrell D. Denton@INVEST-1@RTCKC
omments:

YI.

------------------------- [Original Message] -------------------------

t the request of General Counsel Kulka and Deputy CEO Ryan, PLS and The ashington Office of Investigations have established a team to ascertain if ny liability claims remain viable as a result of the recent legislation xtending the statute of limitaions from two to five years. In this case the esurected statute expires at he end of February 1994.

ary Watts of my staff, assisted by Tom Murray will be visiting your office is week and next. Please give them access to all records and workpapers, d to knowledgeable members of your staff, including records and documents at are covered by a Federal Grand Jury Subpoena.

ary and Tom will be working with a team of PLS attorneys headed by Sr. ounsel Mark Gabrellian and including Terry Arbit, Jim Igo, April Breslaw, arl Gamble and Suzanne Rigby. The objective is to complete the review of aims potential by next week. In addition the team will assist in compiling detailed history of events, including the criminal referral and document ontrol issues, to assist RTC management in communicating in a factual and ified way to Treasury and Justice officials, the special counsel and to propriate committees and members of Congress.

29

To: L. Richard Iorio@INVEST-1@RTCKC
Lee O. Ausen@INVEST-1@RTCKC
Michael X. Caron@INVEST-1@RTCKC
Cc:
Bcc:
From: L. Jean Lewis@INVEST-1@RTCKC
Subject: U.S.Atty's office/Little Rock
Date: Monday, February 7, 1994 9:41:03 CST
Attach:
Certify: Y
Forwarded by:

This is to advise you that I've had a conversation this morning with AUSA Fletcher Jackson of the U.S. Attorney's office in Little Rock. I called Mr. Jackson last week to make an inquiry regarding Independence Federal Savings in Batesville, Arkansas, out of which he had prosecuted a case regarding [redacted] Duane Kepford sent me a memo quite some time ago about another [redacted] I recalled in having done a preliminary review of Independence, that Edney was given immunity for cooperating. I called Mr. Jackson last week to verify that fact, which he in turn did verify when he called back.

Mr. Jackson called Friday afternoon, and as I was out of the office, I intended to call him back this morning. Before I had the opportunity to call him, he called me.

We discussed [redacted], and he then changed the topic by asking me if Steve Irons had told me last fall not to talk to Fletcher. I told him that I preferred not to answer the question. He then stated that he "didn't have much use for either Steve Irons or Gretchen Hall", and wanted to know what I'd been told. I advised him that Steve Irons had told me last fall that he thought it was a good idea if we (being Steve and myself) didn't talk to each other for a while about Madison. I further added that it had been suggested to me by my management here that any questions directed to me by the U.S. Attorney's office should probably come through Steve Irons or another FBI agent, and that since the FBI was my most appropriate contact, I should funnel responses to any questions through them. Mr. Jackson made a comment that he [redacted] and he was just looking for some input from me. He didn't get any.

He then added that he'd spoken to Jeff Gerrish recently, and that Gerrish was "absolutely astounded" that nothing more was ever done criminally with Madison, beyond the Castle Grande transaction. He asked if me if knew who Gerrish was; I advised him that yes, I knew Jeff Gerrish, and no, I was not aware of Mr. Gerrish's opinions regarding the prosecution of criminal actions out of Madison, and that I'd formed my own conclusions on that point, and that's where they would stay - my own. I then advised Mr. Jackson that I did not wish to discuss Madison Guaranty, and we could change the subject, or hang up. He persisted, and I explained to him that I'd developed a respect for him during the past 2 1/2 years, and that out of respect for the working relationship we've previously had, I wasn't going to talk about Madison. We then hung up after a coridal goodbye.

30

To: Thomas L. Hindes@Legal-pls@RTCDC
Cc: James R. Dudine@Oper-inv@RTCDC
L. Richard Iorio@INVEST-1@RTCKC
Glen A. Penrose@EXEC@RTCKC
April A. Breslaw@Legal-pls@RTCDC
David G. Eisenstein@Legal-pls@RTCDC
Russell F. Kaufman@Legal-Exec@RTCKC
Philip J. Adams@LEGAL-PLS@RTCKC
Bcc:
From: Julie F. Yanda@LEGAL-PLS@RTCKC
Subject: Visit from OCOS re: Madison
Date: Wednesday, January 5, 1994 15:59:30 CST
Attach:
Certify: N
Forwarded by: L. Richard Iorio@INVEST-1@RTCKC

Comments by: L. Richard Iorio@INVEST-1@RTCKC
Forwarded to: Lee O. Ausen@INVEST-1@RTCKC
L. Jean Lewis@INVEST-1@RTCKC
Michael X. Caron@INVEST-1@RTCKC
Jane M. Jankowski@OLA@RTCKC, bam
Comments:

FYI. This is way out of line. I have already contacted WDC and filed a formal complaint.

------------------------- [Original Message] -------------------------

Today at 1:30 p.m., Russ Kaufman and I received word that OCOS wanted to talk to us about the Madison Guaranty."investigation". We met with representatives of both WDC and KCO OCOS: Leonard Newmark (WDC), Michael Kohn (KCO) and a third individual whose name I cannot now remember. When Russ asked who had sent them to talk to us, Mr. Newmark replied that it had been his supervisor who had sent them and who had instructed them to be "proactive" in dealing with the issues this case would raise. Mr. Newmark indicated that they were not conducting an investigation, but rather an "inquiry".

The first question they asked was who had made the criminal referral on Madison Guaranty. Russ indicated that the referrals were made in accordance with RTC policy and committed to providing Mr. Kohn with a copy of the RTC policy. There was no further discussion of the referrals.

The second series of questions they asked dealt with what they characterized as "fitness and integrity" issues concerning the Rose Law Firm. First, they asked what investigation PLS had done into the representations the Rose Firm had made to state regulators to convince the regulators that Madison should remain open. I replied that PLS only investigates issues dealing with professional malpractice and that such inquiries would be made only in the context of conflict of interests issues involving outside counsel. I then xplained that this case was not regionalized and that April had served as the LS attorney on this case. Second, they asked who was the FDIC "conflicts ontact" on this case. Third, they asked what information we had concerning he audit report the Rose Firm had used to convince regulators that Madison hould remain open and then later relied upon in a malpractice claim against rost & Co. Again, I told them that I had no information concerning these ssues.

Our discussion lasted no more than 10 minutes. Russ and I then called Richard Iorio and discussed with him the substance of our conversation with OCOS.

ROSE LAW FIRM
A PROFESSIONAL ASSOCIATION
ATTORNEYS
120 EAST FOURTH STREET
LITTLE ROCK, ARKANSAS 72201
TELEPHONE (501) 375-9131
TELECOPIER (501) 375-1309

U. M. ROSE
1834-1913

J. GASTON WILLIAMSON
PHILLIP CARROLL
W. DANE CLAY
C. JOSEPH GIROIR, JR.
GEORGE E. CAMPBELL
HERBERT C. RULE, III
STANLEY E. PRICE
H. WATT GREGORY, III
W. WILSON JONES
VINCENT FOSTER, JR.
CHARLES C. OWEN
ALLEN W. BIRD, II
WILLIAM E. BISHOP
HILLARY RODHAM CLINTON
C. BRANTLY BUCK
TIM BOE

M. JANE DICKEY
WILLIAM H. KENNEDY, III
KENNETH R. SHEMIN
RICHARD B. STEINKAMP
RONALD M. CLARK
GARLAND J. GARRETT
JERRY C. JONES
THOMAS P. THRASH
DAVID A. KNIGHT
CAROL S. ARNOLD
JACKSON FARROW, JR.
JAMES M. PENICK, III
LES R. BALEDGE
JIM HUNTER BIRCH
R. DAVIS THOMAS, JR.

COUNSEL
WEBSTER L. HUBBELL

October 10, 1983

31

Mr. James B. McDougal
Chairman of the Board
Bank of Kingston
101 Public Square
Kingston, AR 72742

Dear Jim:

Pursuant to your discussion with Hillary Rodham Clinton, I am enclosing herewith a copy of our firm statement, dated December 23, 1981, covering services rendered in connection with the matter of the First National Bank of Huntsville v. Madison Bank and Trust.

Very truly yours,

Joe

C. J. Giroir, Jr.

CJGjr:sg
Encl.

ROSE LAW FIRM
A PROFESSIONAL ASSOCIATION
120 EAST FOURTH STREET
LITTLE ROCK, ARKANSAS 72201
PHONE 501 375-9131

IN ACCOUNT WITH

December 23, 1981

Mr. James B. McDougal
Chairman of the Board
Bank of Kingston
Kingston, AR 72742

Tax identification number 71-0438614

CJG/sg

FOR LEGAL SERVICES AND PROFESSIONAL ADVICE rendered by Vincent Foster, Jr., Carol Arnold and Mary Ellen Russell subsequent to our billing dated December 23, 1981 through May 15, 1982 in connection with the matter of First National Bank of Huntsville v. Madison Bank and Trust; Madison Chancery #E-81-112--------- $ 5,000.00

COSTS ADVANCED SUBSEQUENT TO OUR BILLING DATED DECEMBER 23, 1981 THROUGH JULY 31, 1982:

Long distance telephone	$ 91.17
Xerox charges	21.40
Extraordinary postage	1.56
Package delivery expenses	6.70
Supreme Court Clerk	100.00
Computer Research	92.70
Trevathan Printing Company	580.10

Total costs-------------------------------- $ 893.63

TOTAL FEES AND COSTS----------------------- $ 5,893.63

32

MEMORANDUM

February 7, 1985

TO: Governor Bill Clinton

FROM: Jim McDougal

Kathy called yesterday to ask for my recommendations for two people to fill the vacancies on the State Savings and Loan Board.

For the industry position from the 2nd Congressional District, I recommend John Latham, who is chairman of the board of Madison Guaranty Savings and Loan Association. Mr. Latham is a CPA and a licensed attorney. He is a major contributor to your campaign. His board of directors is 50% Black, giving his institution the largest minority representation of any financial institution in the state.

For the consumer position from the 4th Congressional District, I recommend Dr. Jerry Kendall of Camden. Dr. Kendall is a popular figure at Camden. His wife, Nancy from Magnolia, is widely and favorably know. Their complete support of your administration is a certainty.

Bill, we are down to only about 15 state chartered savings and loan institutions and I am about the only one around who has any interest in this board.

JRM/ss

3

December 12, 1984

Mr. Ron Proctor
Citizens Bank
P. O. Box 261
Flippin, Arkansas 72634

Dear Ron:

I have been unsuccessful in trying to meet with Bill and Hillary to sign the note renewal. I have forwarded to them by messenger this morning the note and an envelope with which to forward it to you.

Each month we will deposit into our account at Flippin an amount sufficient to cover the monthly payment.

Thank you very much for your patience and tolerance in this matter.

Sincerely,

James B. McDougal
WHITEWATER DEVELOPMENT CO.

JBMcD/rm

34

MEMORANDUM

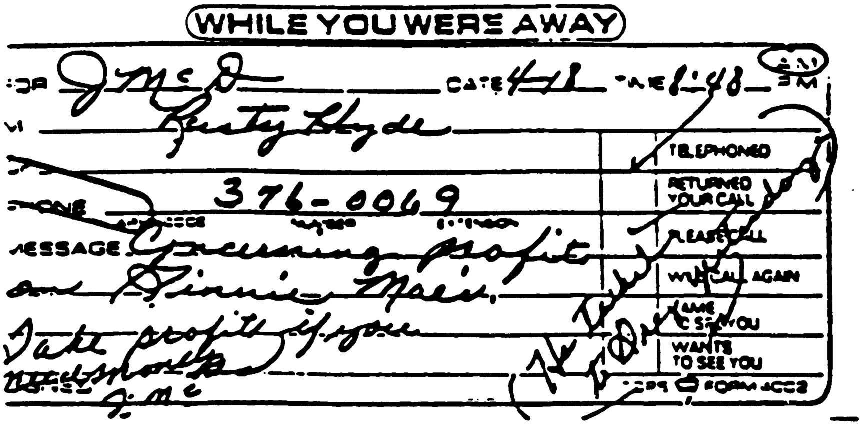
April 18, 1985

TO: John Latham

FROM: Jim McDougal

I want this preferred stock matter cleared up immediately as I need to go to Washington to sell stock.

JM/ss



WHILE YOU WERE AWAY

FOR J McD DATE 4-18 TIME 1:48 PM

M Rusty Hyde

OF

PHONE 376-0069

AREA CODE NUMBER EXTENSION

☑ TELEPHONED

☐ RETURNED YOUR CALL

☐ PLEASE CALL

☐ WILL CALL AGAIN

☐ CAME TO SEE YOU

☐ WANTS TO SEE YOU

MESSAGE Concerning profit on Ginnie Maes.

Take profits if you need money

SIGNED J. Mc

FORM 4002

MEMORANDUM

35

February 19, 1985

TO: John Latham

FROM: Jim McDougal

SUBJECT: Harvey Bell Cars

He wants us to do a leasing arrangement on his funeral cars. Please assign someone to discuss this with him. His number is 376-1600.

Proceed with your idea on the subordinated notes. We need to make a decision on Madison Bank & Trust.

I need to close on my house loan and commercial loan pronto!

JM/ss

36

January 7, 1985

MEMO

TO: John

FROM: Jim

1. See me about Steve Smith and Rolls Royce.
2. You, Greg, and I need to discuss Securities License. First South has one on by its Service Corporation.
3. Ask Greg how we get a market survey for shopping center.
4. We need to talk about how to handle first payment on the 90-day plan.

Minute
Bonner
Fair Oaks

Jim
JM/db

37

MEMO

July 11, 1985

TO: John Latham

FROM: Jim McDougal

1. This is poobably a good time to take in some 5-year money cheap. Let's discuss rates.

2. I need to know everything you have pending before the Securities Commission as I intend to get with Hillary Clinton within the next few days.

JM/ss

WEEKLY REPORT
ON
CONGRESSIONAL ACTIVITY

OFFICE OF GOVERNMENTAL RELATIONS

FEBRUARY 25, 1994

SENATE BANKING COMMITTEE OVERSIGHT HEARING HELD. On Thursday, February 24, the Senate Banking Committee heard testimony from the following witnesses: Lloyd Bentsen, Secretary of Treasury; Alan Greenspan, Chairman, Federal Reserve Board; Roger Altman, Acting Interim CEO, RTC; Jonathan Fiechter, Acting Director, OTS; and Andrew Hove, Acting Director, FDIC. (Transcript attached under Congressional Remarks).

BILLS REMOVED FROM OGR'S TRACKING SYSTEM. Legal has reviewed the following bill and has found that it has no significant impact or relevance to the RTC: S. 1801.

BANKING, REGULATION AND OTHER RTC-RELATED HEARINGS SCHEDULED OR EXPECTED. The following is a list of Congressional hearings scheduled or expected to be scheduled which covers items of interest to either the RTC or financial institutions. **Hearings at which RTC witnesses are to present testimony are printed in bold.**

March 1: **House Banking General Oversight Subcommittee (Flake) on appraisal *de minimis* levels. Witness: Thomas Inserra, Chief Appraiser, RTC. Time: 10:00 a.m. in 2222 Rayburn.**

March 2: **House Banking General Oversight Subcommittee (Flake) on RTC Completion Act Management Reforms on MWOB contracting and acquisition preferences of failed minority institutions. Witnesses: Roger Altman, Acting CEO, RTC; John Ryan, Acting Deputy CEO, RTC; Johnnie Booker, Vice President, Minority and Women's Programs, RTC; J. Paul Ramey, Vice President, Resolutions Division, RTC; Ellen Kulka, Sr. Vice President, General Counsel, RTC. Time:**

As of 02/25/94

OGR Bill Tracking System

New Legislation This Week

Bill # (Intro. date)	Sponsor	RTC Relevance	Status of Legislation	OGR Staff
		NONE		

10257

Recent Actions on Legislation Being Tracked

Bill # (Intro. date)	Sponsor	RTC Relevance	Status of Legislation	OGR Staff
		NONE		

Anticipated Legislation

Bill # (Intro. date)	Sponsor	RTC Relevance	Status of Legislation	OGR Staff
		NONE		

Congressional Record Items from February 18 - February 24, 1994

- Thursday, February 24, 1994
  Senate Banking Cmte Hearing: Alan Greenspan, Andrew Howe, Jonathan Fletcher, and Dietra Ford - Thrift Depositor Protection (Part I)
  Transcript ID: 1042757 (1094 lines)

HEARING OF THE SENATE BANKING COMMITTEE

SUBJECT:
RTC THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD SEMIANNUAL REPORT

CHAIRED BY: SENATOR DONALD RIEGLE (D-MI)

WITNESSES:
LLOYD BENTSEN, SECRETARY OF THE TREASURY
ROGER ALTMAN, INTERIM CEO, RESOLUTION TRUST CORPORATION

ACCOMPANIED BY:
ALAN GREENSPAN, CHAIRMAN, FEDERAL RESERVE BOARD
ANDREW HOVE, ACTING CHAIRMAN, FEDERAL INSURANCE DEPOSIT CORPORATION
JONATHAN FIECHTER, ACTING DIRECTOR, OFFICE OF THRIFT SUPERVISION
DIETRA FORD, EXECUTIVE DIRECTOR, THRIFT DEPOSITOR PROTECTION BOARD

538 DIRKSEN SENATE OFFICE BUILDING
WASHINGTON, DC

THURSDAY, FEBRUARY 24, 1994

SEC. BENTSEN: Mr. Chairman, members of the committee, I have the Oversight Board members with me here -- Mr. Alan Greenspan, chairman of board of the Federal Reserve; Roger Altman, who's the interim CEO of the RTC. I've got Jonathan Fiechter, who's the acting director of the Office of Thrift Supervision; Andrew Hove, who's the acting chairman of the Federal Deposit Insurance Corporation. Also accompanying us is Dietra Ford, who's the executive director of the Oversight Board.

And I have a longer version for the record, but I'd like to summarize it, particularly with the lateness of the hour, if I might.

SEN. RIEGLE: We'll make your full report a part of the record, and we'd like your summary.

SEN. BENTSEN: Before I begin, and listening to the partisan exchange, let me thank the members of this committee for their bipartisan support last year, in the last session, to obtain the funding to finish the RTC job. I'm quite appreciative of that.

Let me tell you something you don't hear very often. We're not here to ask for more money. The funding -- (applause, laughter) -- the funding provided through the RTC Completion Act ought to be sufficient. In fact, they tell me this is the first time that the Oversight Board has been before you that it wasn't asking for additional money and funding. And I'm just very pleased to be able to inherit that honor.

I'm also happy to report that few S&Ls are failing, and 99 percent of private-sector thrifts are well or adequately capitalized. Let me review some of the numbers for you.

Since the RTC was created in 1989, it's taken over 743 failed institutions and it's closed or sold 680 of them. In the process it protected nearly 23 million deposit accounts with an average balance of $9,000. RTC made good on the government's guarantee of deposit insurance to millions of Americans nationwide. And, I might add, it did it with a minimum of disruption. A lot of the customers didn't even know that the RTC had taken over their S&L.

The RTC also undertook the greatest liquidation in history, so far disposing of $393 billion in assets for about 90 percent of their book value. Frankly, I couldn't believe that one. I made them go back and check it again for me.

The RTC sold since its inception nearly 80,000 units as affordable housing. So at least tens of thousands of lower-income families have benefitted as this problem is being solved.

Now, crime is at the top of our agenda these days. We talk about violent crimes. Well, this scandal had criminals -- had white collar criminals. More than 1,500 persons were charged with major crimes involving S&Ls. Nearly 1,250 were convicted. And of those sentenced, more than 75 percent went to prison. And RTC has pursued several recoveries from wrong-doers with all involved agencies collecting nearly $2 billion.

Mr. Chairman, when this administration took office the total cost of resolving the S&L problem was estimated at between $100 and $150 billion. When I testified just last March, we thought as much as 45 billion in additional funding would be needed. That was on top of the nearly 87 billion already appropriated.

A lot of people agreed with us. The Congressional Budget Office estimated 50 billion. The General Accounting Office had us around that level. And so did the House and the Senate budget committees. As RTC funding legislation moved through the Congress last year, constantly improving economic conditions resulted in record earnings for the S&L and the banking industries. By mid-November after lengthy deliberations in both houses, the funding bill provided $18.3 billion, and that brought the total amount that's provided by Congress for the clean-up to $105 billion, a figure on the low end of the estimate when this administration took office.

And I know the results could have been different -- easily. Depositors could have lost all their savings. Loss to the government could have been far greater, resolution of the problem could have taken much longer. But to the credit of a great many people, and they're seated in this committee, in addition, the problem is near resolution.

I'd like to give you some -- and I'd like to give some credit to the management of the RTC. And I think we'd sure better credit the economy. Deficit reduction has helped interest rates to fall. We've taken steps to increase the availability of credit, tackling unnecessary regulations and report requirements that discourage lenders from making loans to small business. And we'll continue to propose changes that will result in greater credit availability and efficiencies in the banking industry. This is why we want to sell a number of issues, including passage of the community development financial institutions legislation, which includes a balanced reduction and regulatory reform.

I'll be before this committee next week with specifics on the administration's proposal to reform and simplify the regulatory structure for depository institutions. Our proposal not only will eliminate unnecessary regulatory expenses which could result in the availability of greater credit, but as importantly, it can help avoid new crisis by putting a stop to inconsistent and confused regulation. But we'll talk more about that next week.

But the point I want to make on deficit reduction is that the market responded, the economy responded. Housing starts and home sales are up, and that's sure good news when you're the RTC and you're trying to dispose of property. I can't help think back what a dramatic difference interest rates make. I used to chair a savings and loan. Sure glad I sold it when I came to the Senate. (Laughing.)

But I'll tell you, not smart, just lucky! But I'll tell you -- (laughter).

But I'll tell you, when you've got your mortgages at one rate and all the sudden long-term interest rates go substantially above that, you've got yourself a real problem in an S&L. And when you've got the government saying we'll guarantee the first 100,000, and you've got a small, new S&L, and then they have Wall Street bundle up hundreds of billions and send it to a little S&L. We saw that thing happen in Vernon, Texas. A good example of that. And then you see the others who are honestly trying to compete and what a hold it puts on them. Fortunately, we're seeing things go the other way with this substantial reduction in interest rates.

And I want to say to you, Senator Bennett, I've seen some of what you're talking about, too, where sometimes they were overzealous. And that balance is in part the concerns of what Senator Boxer has for those that have been ill-used and guilty of malfeasance.

But lower interest rates and increased credit activity have brought about increased earnings for all types of financial institutions. Many S&Ls that may have been at risk are now making profits. But you and I know we can't predict what's going to happen between now and '95 when the RTC goes out of business. Nobody foresaw the floods and the earthquakes, and they had their economic consequences. We're not done yet.

Through '95, RTC must continue to protect depositors. They must dispose of some very hard-to-sell assets. And it must ensure its operations run effectively. It must work toward an orderly transition of its responsibilities to the FDIC. And it must never lose sight of its mandates to provide affordable housing and maximum minority participation, including implementation of provisions of the RTC Completion Act.

I've urged the RTC to work aggressively on the issue of minority participation. It's imperative that minority- and women-owned businesses have an ample opportunity to win contracts, to purchase assets and to acquire failed thrifts. In fact, the RTC is taking special care to meet the requirements of the completion act to provide preferences to minority institutions while applying the least-cost test.

Let me be more specific on some of those things I mentioned.

The RTC has begun resolve 63 insolvent institutions now operating in conservatorship, which about 2.3 million deposit accounts. Some additional institutions may be transferred this year. If so, the RTC will make good on the government's guarantee to those insured depositors and any others who might yet fall under its jurisdiction.

Insofar as the remaining inventory of nearly 64 billion assets -- $64 billion in assets, these, as you said earlier, Mr. Chairman, are the most hard-to-sell properties that are left: real property and non-performing mortgages. While the improved economy helps sales, the potential loss to the taxpayers could be reduced if these assets are managed and sold efficiently. The RTC is working on improving its marketing and sales strategies and is seeking creative, yet sound techniques to maximize returns.

To fulfill its remaining mission, the RTC will benefit from good managers. Jack Ryan of OTS was appointed deputy CEO. Ellen Kukla (sp) of the OTS has been appointed general counsel. And Tom Horton has been promoted to acting senior vice president for asset management and sales. And I can tell you today that the administration expects to submit its nomination for a permanent chief executive shortly.

I thank Roger Altman for the service that he has done as the interim CEO. His term expires the end of March, and we hope by then to have a candidate. In line with the RTC Completion Act, Jack Ryan will serve as the interim CEO between the time Mr. Altman's term expires and the permanent CEO is confirmed.

The Oversight Board will also make some appointments to the audit committee, which will be in operation soon.

I've asked Frank Raines (sp), vice chairman of Fannie Mae, to chair that one, and to serve as members we asked Jonathan Fiktar (sp) of OTS, Robert Larsen (sp), vice chairman of the Taubman (ph) Company and a former member of the Oversight Board. Mr. Larsen (sp) has also been renominated to serve on the Oversight Board, and I hope you'll be able to approve his nomination soon.

The RTC will close down on December 31, 1995, one year earlier than originally thought, and planning for that is well underway. I expect the new management to work with the people at the FDIC in a cooperative way to carry out the transition of the RTC to the FDIC.

This past year the Oversight Board has also strengthened our staff reviews. I was being reminded of my testimony of last year and the recommendations and the improvements that we sought to bring about. We have done a number of them. We haven't completed them all. We're obviously still working at it, and we're scrutinizing some.

For instance, our staff has been monitoring the RTC's efforts to improve its contracting systems and its oversight. A review is being conducted to make sure policies are applied uniformly to all contractors and that contract oversight procedures provide effective review of performance. Another example: The staff has focused on the RTC's financial operating plan, its operating budget and all its borrowing activity, and our advisory boards are taking hard looks at the policies governing asset sales. Late last year, Ira Hall of IBM USA was named chairperson of the National Advisory Board, bringing considerable financial expertise and private sector expertise to that process.

These boards meet regularly at sites nationwide to discuss progress and to hear testimony from witnesses on how these regulations and procedures affect different parts of the country. The RTC listens to their advice, and they have been instrumental in advancing affordable housing opportunities.

Our advisory board structure will change this year.

The Completion Act created a new affordable housing authority board to replace the National Housing Advisory Board. That new board will be made up of nine members, including the secretary of HUD. They will be providing advice on affordable housing programs, and how to merge RTC programs with the FDIC programs after the shutdown, and we're looking forward to working with them.

Now, last year at this hearing, as I said, I announced those ten goals insofar as improving or reforming RTC management -- things like putting in place a system to ensure prompt follow-up on findings of the inspector general and the General Accounting Office, strengthening the contracting system and oversight of its private sector contractors, appointing a chief financial officer. The RTC Completion Act mandated and expanded on those reform, and RTC is moving to meet the standards that Congress determined and set.

I'm pleased with the results, and in a minute, I'd like Roger Altman to discuss them with you one by one. I hope you especially note what we've done on opportunities for minority- and women-owned businesses and in strengthening our internal accounting and administrative control systems. I personally believe that these programs are an important part of RTC duties and that this is an area it must continue to focus on to ensure legislative mandates are carried out.

And Mr. Chairman, let me end on this. I believe that the RTC has made significant progress in the past year in achieving its mandates and in addressing the concerns that you folks in the Congress raised, concerns by the GAO and by the oversight board. You bet there've been a lot of problems, but the organization has been relatively free from partisan conflict. Republicans and Democrats alike have been committed to fulfilling the government's obligations to protect depositors at the least cost to the taxpayers. In '94 we'll keep working at that one, and looking to '95, well, I believe the RTC will be more than happy to be out of business. I sure will be happy.

Thank you. Now let me turn it over to Mr. Altman.

SEN. RIEGLE: Mr. Altman, we'd like to hear from you now.

MR. ALTMAN: Thank you, Mr. Chairman. I, too, have a longer statement which, with your permission --

SEN. RIEGLE: Without objection.

MR. ALTMAN: -- that I hope would be entered into the Record, and I'll summarize it here.

This is probably the final time I will appear before the Congress in any RTC capacity. Under the terms of the Vacancy Act, my appointment would expire on March 30. There are limited circumstances under which that could be extended, but I don't believe they will apply.

As Secretary Bentsen said, it's our intention to nominate a permanent chief executive as soon as possible.
Last year we chose I think a fine candidate, Stanley Tate (sp). He withdrew, which was not at our urging, and I believe he would have done a good job.

I also want to join with Secretary Bentsen in thanking the entire committee for its bipartisan efforts to secure funding through the completion act passed late last year.

I'd also like to note that the RTC has taken special efforts to be responsive relative to the California earthquake. Foreclosures in those effective areas have been delayed, home owners are being helped to avoid delinquencies on mortgages held by the RTC, and we notified FEMA of 54 multifamily units and 47 single family residences that can be made available for temporary housing.

Now, on to the status report.

Mr. Chairman, the S&L collapse required the biggest financial rescue probably in world history. Including money spent by the FSLIC beginning in 1988 it's expected to cost the American taxpayers the staggering sum of about $150 billion. To put that into perspective, at today's budget levels that's equivalent to about 45 years of Head Start, about nine years of Aid to Families with Dependent Children.

And at a time when we all struggle to finance federal support of vital activities from national security to education, these are sobering comparisons. I'm sure all of use would agree on a bipartisan basis to make every effort to ensure that such a fiasco is never repeated.

When we inherited responsibility for this agency, it was not in sound condition. It was one of the largest contracting organizations of all time. But it had poor contracting procedures. It was selling assets in massive blocs, denying local investors a shot at local properties which they knew best.

And despite being larger than almost any American financial institution in the private sector, any bank or any securities firm, it had no full-time chief financial officer, no permanent general counsel, and it had no business plan. So we determined to concentrate on repairing the organization and when Secretary Bentsen first testified before this committee, almost exactly a year ago, he outlined a series of management reforms to which we committed ourselves, and I'd like to very quickly just review some of those. A full-fledged review of all 21 of them is appended to my statement.

Contracting. We found that the agency's contract award procedures had often been violated in the past, and our first action there was to mandate compliance. Some of the compliance problems reflected weak organizing principles. Contracts were often let by the same employees responsible for overseeing them. Obviously, in the event of a compliance problem, the employee then had little incentive to draw attention to it. So the Office of Contracts has been reorganized into two separate units; one for contract solicitation and award, and another for contract administration, to avoid conflict, and the scope of contracting oversight has been substantially expanded. Among other things, the staff there has been more than doubled, and reviews of nearly 500 outstanding contracts were undertaken last year.

Next, audits. A new reporting system has been implemented to ensure that management responds to the concerns raised by auditors. And that system now tracks and updates the status of all inspector general, GAO and internal RTC findings and recommendations. And I'm pleased to say that the RTC today is current in following up on almost all GAO and OIG findings.

Business plan. We completed a comprehensive business plan. We provided copies of that to this committee. It is a highly detailed and, I think, objectively speaking, good piece of work. It's intended to be a living document and we're going to update it regularly as conditions warrant.

Chief financial officer. Donna Cunningham, our chief financial officer, has been on board for about eight months. She's taken that helm very ably, as reflected in a series of improvements in the internal controls in the organization.

The professional liability section. This has been a particularly troubled area of RTC operations. There have been complaints from both sides of the spectrum, as the comments already here today illustrate; complaints that the RTC was unfairly pursuing former S&L directors who had no real roles in those organizations and, on the other side, complaints that the RTC was not sufficiently zealous in pursuing the real crooks.

As GAO recognized in its mid-'93 report, the primary problems have involved inadequate staffing and an overall lack of experienced attorneys and the temporary nature of the RTC has made it particularly difficult from a recruiting point of view. But we have worked hard to increase the size and the training of the staff in this area. We currently have the highest total of attorneys on board in the agency's history. Moreover, senior RTC and FDIC officials are planning to merge the RTC unit here, the PLS unit, with its counterpart in the FDIC, recognizing that the FDIC is a source of experienced attorneys in this area.

I also want to say that effective prosecution of PLS claims continues to be one of the RTC's highest priorities.

Secretary Bentsen referred to our having formed an audit committee and appointed its members. We have also established a joint coordinating committee with the FDIC for purposes of planning the transition or portions of the RTC back into the FDIC by the end of '95.

I'd like to make a special set of comments about expanded opportunities for minorities and women. That's been one of our highest priorities, as Secretary Bentsen said. First of all, we elevated the minority and women's program to the divisional level, put the head of it on the executive committee reporting directly to the CEO. We took action to expand the number of minority- and women-owned businesses receiving RTC contract solicitations. And there are now more than 1,100 of them in our database.

Let me say a couple of words about the record. On a cumulative basis since inception of the $3.7 billion awarded in nonlegal fees, $800 million have been awarded to minority- and women-owned businesses, 21 percent. Take a look at last year. We paid nonlegal fees of $500 million. Minority- and women-owned businesses received 31 percent of those. We also encouraged efforts to encourage the use of minority- and women-owned law firms on the legal side, as far as legal fees are concerned. Last year, such firms received $54 million, or 13 percent, of all legal fees from us, a big increase over the '92 level. And within the category of minority- and women-owned law firms, minority-owned law firms received $36 million, far above the $23 million of a year before.

I think the entire RTC is quite proud at the sharply increased levels of minority and women's participation in all of the fee-generating activities of the agency, and details on that are also appended to my statement.

Turning briefly to operations and financial issues, Secretary Bentsen cited a series of statistics relative to the amounts of institutions which have been resolved since inception. To me the most important statistic is $9,000. That's the average balance in institutions which have been resolved. And for those who think this has been a bailout of the rich and famous, I think that's a pretty telling number.

We have 63 institutions under conservatorship today, $18 billion of deposits. Now that the Completion Act is law, we're in the process of marketing these remaining conservatorships. We think these 63 will be resolved, Mr. Chairman, by the summer of this year, and it should cost $9 billion to $11 billion to do that.

On the asset sale side, we exceeded the targets we initially set last year. Book value reductions, $63 billion; cash proceeds, 76 percent of that. That's a recovery rate below previous years because now we're down to poorer-quality assets, hard-to-sell assets. For this year, '94, we expected to reduce the book value of our inventory by $43 billion, cash proceeds $29 billion, projected recovery rate, 66 percent.

Now, on this asset sales side, one of things we did was to put in place a small investor program because, if I've heard anything in this past year in this capacity, it was that local investors were not -- did not have a shot at local properties which they knew best. So we took steps to ensure that assets would be available for sale individually to small investors with moderate levels of capital. Under this program, individual offerings of real estate properties have been emphasized. Underscore "individual." Auctions and sealed-bid sales have become more frequent and geographically focused.

Smaller loan pools are being offered to allow buyers to purchase smaller, more geographically segmented groups of loans.
And I'm pleased to say that at the most recent non-performing loan auction, in August last year, a third of the winners were new buyers who had not participated before, and the new bidders, overall bidders were for the most part smaller companies with a much higher preference for small loan pools and were most interested in buying geographically-focused loan packages located in their own areas.

Affordable housing -- Secretary Bentsen noted this -- since inception we've sold over 77,000 units, for a total of $1.2 billion. The average annual income of households purchasing in that program has been about $24,000, which, by the way, is 61 percent of the national median family income.

Finally, Mr. Chairman, the issue of whistle-blowing.

As was noted earlier, last September this committee held oversight hearings where a variety of allegations were made, including retaliation against whistle-blowers.

Now, let me emphasize in the strongest terms, we support protections for whistle-blowers and have taken several actions to address those allegations. I issued a memorandum on October 4th to all RTC employees strongly reiterating our policy of prohibiting retaliation against whistle-blowers. We established an employee ombudsman program to augment the efforts of the inspector general in gathering all types of employee allegations. That ombudsman reports directly to the CEO on a weekly basis, and I think that program is working pretty well, because as of February 15th we'd received 116 inquiries, 96 of which had been closed and 20 of which were still pending.

We also had conversations in person and by telephone with six of the individuals who testified here before this committee. And during these interviews we solicited comments, feedback, and suggestions from them on how best to remedy the problems which they raised. And a number of those interviews were insightful and have been taken into account in our efforts to remedy some of the management problems at the RTC. And I just want to underscore how seriously we have taken these allegations and that hundreds of hours have been spent working to understand and resolve them.

In closing, the Completion Act requires the RTC to terminate on December 31st, 1995. We will make that, there is no question that we will make that, and I think it will be a happy day for all concerned, especially the American taxpayer.

Thank you.

SEN. RIEGLE: Thank you very much.

We're going to now proceed with the questions, and we'll go with the normal five-minute time periods.

Chairman Greenspan, let me start with you. The Federal Reserve, of course, has raised interest rates earlier this month, and you just indicated publicly again that further increases are likely. And we know in the past that rising interest rates have had the effect of causing significant problems for thrifts. Now, obviously, the amount is highly relevant. But my question to you would be what effect are these higher interest rates likely to have on the RTC and, for that matter, on the future health of the thrift industry, which is still trying to work its way back?

MR. GREENSPAN: Mr. Chairman, I think you raise a very important question, because one of the lessons of this whole experience has been that we have -- we've put into place in the early post-war years an institution which was a specialized institution, one which could not function in a period of significant inflationary imbalances, an institution which had long-term assets and short-term liabilities. And, as the secretary indicated, when interest rates generally go up that institution is pressed as, indeed, we saw in an extraordinary sense in the period 1979-1980.

One of the things that is very important that we not allow to happen again is that extraordinary type of inflationary imbalance which was so destructive to those types of institutions. To be sure, savings and loans as a consequence of that have restructured their balance to a significant extent and the maturity mismatch is not of the size that it was previously.

Nonetheless, should interest rates rise significantly, then I think it does put those institutions in a very difficult position. It's been the concern of the Federal Reserve that we endeavor to fend off any such types of inflationary instabilities, and the actions that we took -- we took on February 4th, and the general discussion which I outlined to the House Banking Committee's subcommittee in trying to comprehend the type of problems that may be out there, were put forward precisely to prevent the types of difficulties which so debilitated the savings and loans.

To date, the effects on these institutions, of course, have been minimal, and we don't expect to see any particular problems emerge on that, but I would like to call -- ask my colleague, Jon Fiechter, what he sees, he's looking at these institutions in a much more detailed way than I.

MR. FIECHTER: I would echo what Chairman Greenspan said. One -- well, first, clearly a major risk in the thrift industry, given the nature of the business, is interest rates, but a real difference between the thrift today versus the thrift of the late '70s that ran into so much difficulty when the -- there was the rate (spike ?) in the early '80s, is that restructuring both of assets and liabilities, there are a lot of thrifts now that won't hold fixed rate mortgages any longer because they went through the early '80s. Also, as a consequence of (rate Q ?), institutions are able to much better manage their liabilities.

As you know, Mr. Chairman, as a consequence of FDICIA, OTS has spent a lot of time on interest rate risk. We have a fairly extensive model, and in anticipation of a question such as this, I asked the staff based on the information the thrifts now provide what would be the effect of a 200-basis-point increase in interest rates if it were to happen as a shock -- sort of an across-the-board increase, but I don't think we're talking about that type of change. Only ten institutions would fail their current capital requirements.

None of them would go below 2 percent capital, however. And while it's a very uncertain world we live in, the analysis that we've done has suggested that at least in the numbers that we're talking about today, the thrift industry is in a much better position to handle rate increases going forward.

SEN. RIEGLE: I think that's an important response because I think it shows as well that in re-engineering, through FIRREA and then FDICIA, the arrangements that the general strategy is working. Now, if we get overtaken by, you know, events that were to drive interest rates above 200 basis points then we're into a different zone. But let's hope we're not going to deal with that.

Chairman Greenspan, let me ask you one other question. This issue has obviously gotten a lot of attention here this morning. Are you satisfied with the way the Madison Guaranty issue has been handled by the RTC?

MR. GREENSPAN: The oversight board has, as far as I'm concerned, had no relationship with the Madison issue because that is a special case which is handled by the RTC directly. And I must say, I have not followed it in any manner which would enable me to address the question in a useful manner for you.

SEN. RIEGLE: Senator D'Amato?

SEN. ALFONSE D'AMATO (R-NY): Thank you, Mr. Chairman.

Mr. Hove, on August 10th, 1989, there was a letter written to Mr. John O'Donnell by a Ken K. Schenck (sp). He's a credit specialist. I don't know whether you've seen this letter in your reviews of this whole matter, but just let me read you the last paragraph.

"In the process of our suit against Frost & Company, we will most certainly examine practices and procedures Madison Guaranty used in the day-to-day operations. We are making this information available in detail to Mr. Hubbell."

Now listen to this sentence: "To believe that none of this information will make it back to his family is naive. I do not know whether or not any information upcoming will be damaging, however, I would like someone with a wider scope of authority to review the situation and possibly eliminate this conflict."

Here's a credit specialist who's telling you what the real world is about. He was there.

Now, let me go on. In the report released by the FDIC -- eight pages of what I think is the most incredible whitewash of Whitewatergate that I've seen. This is incredible -- incredible. And I've spoken to you just briefly before and I told you what I'm going to ask you. Page six, the bottom: "In addition, we have found no evidence that the firm had a close relationship with the S&L which might call into question its independence."

I mean, I have to tell you, given the information that your people were reporting back to Mr. O'Donnell, FDIC S&L project area coordinator, August 10th, 1989, given this incredible -- I'd say the FDIC makes an assertion that the Rose Law Firm did not maintain a close relationship with Madison Guaranty.

That's incredulous in light of the fact that they had a monthly retainer with them for 15 months for several years earlier. I mean, how do you come to this conclusion?

Now let me ask you one other thing. Is it true that no documents were reviewed as part of the FDIC's internal review which was conducted by your law department? Is that true?

MR. HOVE: Let me respond to your question in the order that you gave them. You first talked about Mr. Hubbell and his relationship with the suit -- with the Frost accounting firm.

SEN. D'AMATO: Have you seen this memo?

MR. HOVE: I have not seen that memo.

SEN. D'AMATO: Let's have staff give a copy of this memo to Mr. Hove, please.

MR. HOVE: Let me respond to that.

SEN. D'AMATO: Would you like to look at that last paragraph and let me know whether or not your people, in conducting this review have seen this? It goes back to 1989. And the person who sends it says it would be naive to think that Mr. Hubbell would not pass this information on to his family.

MR. HOVE: But let me respond by saying that even if he had the issue between Mr. Ward, who is Mr. Hubbell's father-in-law, and the Madison Guaranty had been already decided, and Mr. Ward had a judgment at that time against Madison. That case was on appeal, and therefore, any information that Mr. Hubbell could obtain, even if he would obtain it, and give it to his father-in-law would not be admissible, would not be in the appeal process, even if he had had the information to give to him.

SEN. D'AMATO: Mr. Hove, did you ask you, did read page six, the bottom of your report? Because we don't have much time. So I'm going to -- it says, "We find no evidence that the firm had a close relationship with the S&L." Do you really believe that to be the case? Do you really believe that a monthly retainer that Hillary Rodham Clinton had did not establish a close relationship? Are you really suggesting that there was none?

MR. HOVE: Her relationship --

SEN. D'AMATO: Is that credible in light of what you know?

MR. HOVE: Her relationship with Madison was on an issue that was in a state agency and not with the federal government. It was not with the FDIC. And our case was not against Madison. Our case was against the Frost Law Firm -- or over the Frost accounting firm.

In addition, we find no evidence that the firm had a close relationship with the S&L, which might call into question its independence. I mean, are you serious? I mean, that is a conclusion that was made. Let me tell you, it was made by your legal department.

Let's go into something else. As part of last year's RTC Act, we have an inspector general that was created in the FDIC. Was the FDIC inspector general involved in this review?

MR. FIECHTER: No, sir. The review was started at your request, if you recall. I had indicated to you in my confirmation hearing that we were undergoing a review by our legal division as to what was the policy, the conflict policy that may be in effect betweenthe Rose law firm and the FDIC in the lawsuit that Rose was doing for the FDIC against the Frost accounting firm.

SEN. D'AMATO: Let me ask you this. Do you plan to ask the inspector general's office to analyze the procedures used by the FDIC legal staff in conducting this internal review and in essence to review this matter?

MR. FIECHTER: I would do that if the committee requested that.

SEN. D'AMATO: Well, I'm requesting it, and I would suggest that you didn't need -- you wouldn't need the committee to ask you to do this. I'd suggest to you that it's your job to do it. I'd suggest to you that when you have such obvious areas of conflict in this report, when you're saying that there was no close relationship, when you're suggesting that Webb Hubbell would not and was not in the position to give any information to his father-in-law, that is incredulous. And if you don't have an inspector general looking to something like this, then what do you have him for? And what do you have? You have staff people who are going to make -- who make this kind of determination?

Now, I have to tell you you will be doing yourself and the FDIC, I think, a great, great damage if you just think that you're going to let it rest on this eight pages of sophomoric, legalistic mumble jumble that doesn't hold water. And I've just looked at this report. I've seen some occasion to see it in the newspaper. This is the first time I've had an opportunity to review it personally this morning, and it's shockingly inept.

Now, question. Do you intend, not by way of this committee instructing you, to put this matter, and don't you think it's appropriate that it be submitted to the inspector general? Yes or no?

MR. FIECHTER: Senator, we've been reviewing this to review our procedures, to review our procedures with conflicts, with conflicts not only with the Rose law firm but every law firm that we deal with.

And our procedure is to deal not only with the actual conflicts but also to deal with the appearance of conflicts. And in this case had we done that, had we dealt with the appearance of conflicts, it is likely that the appearance would have been different -- the conclusion may have been different. But Senator, this has been several years ago. At that time we had many cases coming in to us as a result of the savings and loan failures, and the conflict, under the rules that we were dealing with at that time, did not present any conflict of interest from the Rose law firm suing the Frost accounting firm.

SEN. D'AMATO: It's what we're doing today. Today you're saying there may be a conflict back then because they didn't have clear rules spelled out.

Today you're saying there may be a conflict back then because they didn't have clear rules spelled out. Now let me tell you whether it smells today -- and it smelled then -- I don't want to get into this legalese that maybe -- I want to know if you're going to ask the inspector general to review this matter. That's a question.

MR. HOVE: I will do that if committee requests it.

SEN. D'AMATO: Well, Mr. Chairman, I would at this point in time move that we ask that this matter be reviewed by the inspector general. Now this is not going to interfere with any federal prosecution that's taking place, but it's a question of ascertaining whether or not we're getting the facts. It's a question of whether or not legal counsel has analyzed all the documents. I don't know -- I read in one news account that says that no documents were received as part of the FDIC's internal review. I don't know whether that's true or not, but that's certainly something I intend to pursue.

SEN. RIEGLE: Yeah, let me just respond to your question because the time is up and I want to stay within these time periods or we'll -- we won't be able to move any at all here in an efficient way.

Let me take your request under review. I'm not sure but what a request from a single senator may be sufficient to -- in asking for an inspector general review. I don't know without sort of looking at our past practices and precedents, but let us research that question.

SEN. D'AMATO: Let me thank you for the manner in which you've handled it, but I have to tell you something. I'm wondering why when I asked you a question, yes or no, would you undertake this -- and Mr. Hove, before you answered, the fellow behind you with the glasses who has got a lot of hair I wish I had, you know, came up and told you what to say. Now, can I ask what is your title and what is your responsibility?

MR.   : The acting general counsel.

SEN. D'AMATO: You're the acting general counsel. Well, you know, sir, whether or not you're going to ask, it seems to me for this to be reviewed is a matter if you see that the propriety of this report, the integrity, the correctness of it can be substantiated. And it would seem to me that you'd want to do that.

MR. HOVE: Well, let --

SEN. D'AMATO: It would seem to me that without counsel coming to you and saying whether -- you know, you can wriggle out by saying that the committee has to ask. And I appreciate the chairman's response, I really do.

But I just want to make that observation, Mr. Hove. I find your response totally unacceptable.

MR. HOVE: Mr. Chairman?

SEN. RIEGLE: We'll let -- I want to move ahead to Senator Kerry, who is next, and if you want to make a response, certainly --

MR. HOVE: Yes, I would like to, and first of all, all the documents, everything that we have discovered is available to the special counsel, and we will make that available to the special counsel. I will commit to you that I will ask the inspector general to undertake an investigation.

SEN. D'AMATO: Thank you. Thank you very much. And I think you have done the administration a service, yourself, the FDIC, and I applaud you for that.

Thank you, Mr. Chairman.

SEN. RIEGLE: Senator Kerry?

SEN. KERRY: Mr. Hove, you were originally appointed to your position by President Bush, weren't you?

MR.   : That's correct.

SEN. KERRY: So you're a holdover from the Bush administration then. There's no special affiliation you have with President Clinton, is that correct?

MR. : That's correct.

SEN. KERRY: I think it's a fair issue always as to what the level of review is, as to any institution, if it takes place. And I've certainly shared a public expression of concern about what the inspector generals have done or not done. But I would like to see, if it's going to be done, as to Madison, I really want to see it done as to Columbia and as to some of the others. I just think we ought to cover the board here.

Secondly, I want to point out the distinction here which we keep missing. And one of my colleagues earlier said if this were President Reagan who did this and it was Silverado and so forth, we'd be screaming. Those were sitting presidents who made sitting decisions regarding a policy at that moment in time that cost the taxpayers a lot of money. There is no sitting presidential decision here, there is no issue of presidential policy here. There is no issue of taxpayers being cost money by an action taken by the president of the United States at this time. This happened in 1982 and 1986, before they became president.

Now, an individual died and there's an investigation into the death of that individual and what may or may not happened is a fair question with respect to the death. And that's being investigated by the first special prosecutor of an opposing party that I can think of in my public memory in public office that's been appointed. That is the clear distinction here. And it is a very real distinction. No taxpayer money, no public issue of policy, no decision of a sitting president of the United States with respect to what this committee has oversight on and is here for today.

The question is legitimate: what took place, were there relationships previously -- these are important as to all these banks. And it is fair for the special prosecutor to proceed on that, and it is even more important that this committee guarantee down the road that we investigate everything. I'm not sitting here saying something may not have taken place. In point of fact, there may be some indication that some folks outside of the White House may have some questions to answer. But there is no evidence whatsoever with respect to policy or taxpayer money or any decision made by the president of the United States that warrants this kind of inquiry.

Now, let me ask you, if I may, Mr. Altman, and Mr. Secretary, perhaps you can share with me, because one of our concerns is not just Madison but a whole lot of other institutions. I think 42 percent of the total losses fall in Texas alone. And there's a serious question about professional liability with respect to those institutions. I'd like to know, to date, what is the total amount of money recovered to date from directors or officers of these institutions nationally?

MR. ALTMAN(?): $640 million, senator.

SEN. KERRY: Six hundred and forty million?

MR. ALTMAN(?): From institutions -- from institutions.

SEN. KERRY: And that's recovered through liability cases.

MR. ALTMAN(?): Those are criminally related recoveries.

SEN. KERRY: What about civil? Is there any at this point?

MR. ALTMAN(?): In addition to that figure I gave you, about $745 million from civil-related recoveries.

SEN. KERRY: So we have in fact recovered to date a billion three, is that correct? It's not insignificant.

Can you break down where that has taken place? It's my understanding 42 percent of the total cost of bailout was Texas. Is there a corresponding recovery rate or any kind of rate you could give us as to where the most money came from?

MR. ALTMAN(?): I don't have information with me, senator, on state-by-state breakouts, and I don't know whether --

SEN. KERRY: Would it be possible just to get that at some point in time?

MR. ALTMAN: We'll be happy to do our best to do so.

SEN. KERRY: I think it would be good to have a sense of that.

It's my understanding that you were going to take a look at this question of sort of why the recovery rate may or may not have been low. Have you been able to draw any conclusions as to that? I mean, one of the things I heard is that a lot of the attorneys who came on believing that they were going to be able to engage in recovery grew so frustrated at not being able to do so in the early years that they left. I don't know if that's legitimate or if you've found other reasons, but could you share with the committee what, if anything, you may have discovered with respect to the recovery process?

MR. ALTMAN: As I said in my opening comments, the entire PLS area has been a troubled one, and there have been complaints from both ends of the spectrum about overzealousness and about inadequate pursuit. And we've had as GAO in its report noted a high degree of turnover and difficulty retaining -- recruiting and retaining experienced attorneys because of the temporary nature of the RTC. After all, here we are with less than two years to go.

SEN. KERRY: Currently that's true. What about in eighty -- what about in the early stage -- late -- late '80s?

MR. ALTMAN: Well, of course, the RTC has always been intended to be a temporary agency, and I'd just refer you to the GAO report which concluded that that was a particular problem. And as I've mentioned, we've made a series of efforts to strengthen that, the most important of which is to hire a very good and very strong general counsel.

When we inherited responsibility for the RTC, despite its being such a large institution -- as I said, larger than almost any private financial institution in the country -- it didn't have a full-time general counsel. And that's a very important step we took. We've also got more PLS attorneys on board today than ever before in the history of the organization. So we're making every effort to try to fulfill all the responsibilities we have in this area.

I don't think there's any way to know, senator -- or if there is, I don't know -- whether -- or what percentage of recoveries that have been made compared to the potential that an ideal effort, a perfect effort would have obtained. I don't -- I don't know the answer to that.

SEN. KERRY: Okay.

My time is up. Thank you very much, Mr. Chairman.

SEN. RIEGLE: Thank you much, Senator Kerry.

Senator Bond is next.

SEN. CHRISTOPHER S. BOND (R-MO): Thank you very much, Mr. Chairman.

Mr. Altman, are there special measures taken when in the resolution of a failed thrift you find it to be affiliated with a high profile individual? Someone in government, for example?

MR. ALTMAN: The procedures, Senator, which the RTC follows are intended to be identical in each case, and they certainly have been identical in the case discussed this morning.

SEN. BOND: After you discovered that the president of the United States's name might be mentioned in a criminal referral being made by your agency, did you take any steps to ensure that documents created in the case were protected and preserved?

MR. ALTMAN: When the possibility of a criminal referral was brought to me, I took one step, and that was to instruct all the relevant RTC personnel to handle any judgments about criminal referral in the same exact fashion that they would be handled in any other PLS matter, no deviation whatsoever. As far as documents are concerned, the same thing.

SEN. BOND: You instructed them to handle the documents in the same way?

MR. ALTMAN: That's correct.

SEN. BOND: Were there any instructions received by you or to, your knowledge, anyone in your agency from the Department of Justice, the White House or special counsel with respect to the retention of documents?

MR. ALTMAN: To the best of my knowledge, and I believe I know this, there were no requests or conversations with the White House whatsoever on that. With regard to Justice and the special counsel, I'm advised there have been conversations, the essence of which is that each party reminding the other not to take steps or release information which could jeopardize either party's investigation.

SEN. BOND: Given the facts I set out in my opening statement, we are concerned about whether all the documents are there, can you assure the committee that no one has issued any instructions to you or your agency to retrieve, relocate, destroy or tamper with any documents dealing with Madison, its affiliated enterprises, directors, owners or business partners?

MR. ALTMAN: I have no knowledge whatsoever of any such effort.

SEN. BOND: Has anyone in your agency, specifically the Department of Records Management, indicated to you there are any missing documents? Or has anybody discovered any files missing or unaccounted for?

MR. ALTMAN: No.

SEN. BOND: You are absolutely sure that --

MR. ALTMAN: No, your question was: Has anybody indicated to me.

SEN. BOND: All right.

MR. ALTMAN: The answer is no.

SEN. BOND: Would you inquire of your records management agency whether they have either, A, been given instructions about the handling of documents from somebody outside or if they have found any evidence of missing documents or find that there are documents apparently missing? If you would inquire of that and advise us if you do find that there is such information?

SEN. RIEGLE: I think the stenographer should note that he's nodding in the affirmative.

MR. HOVE: Yes.

SEN. BOND: Finally, will the RTC release copies of the initial September 1992 referral to the Department of Justice and copies of the second referral on October '93?

MR. HOVE: Senator, we're not in a position to release any documents that could have a negative impact on the investigation. I don't think you would want us to do that. And documents of that type that you're talking about fall into that category.

SEN. BOND: Allegations were made by Susan McDougal that many of the Whitewater files were actually delivered to Mrs. Clinton in 1987. What steps have been taken by your agency to recover those files or to ascertain where those files might exist?

MR. HOVE: I have no knowledge of that matter.

SEN. BOND: Have you heard of the allegation?

MR. HOVE: Actually, no.

SEN. BOND: Mr. Altman, I know there's many aspects to it. I was just reading one of the stories appearing in Commentary which referred to those allegations. We don't know if they are true or not, but I would suggest that someone should make inquiry to ascertain whether there is any truth to the allegations and if so, to take appropriate steps to recover such documents.

Finally, where are the documents being kept, and have they been thoroughly catalogued?

MR. ALTMAN (?): Well, I can assure you that all proper procedures relative to safeguarding of documents are being followed. We also have a responsibility in regard to any case to obtain all the necessary materials for purposes of making a litigation decision.

So any documents that the legal staff at the RTC believes would pertain -- would help it reach a conclusion on a litigation decision, in this or any other matter, it makes a maximum effort to obtain.

SEN. BOND: But that -- you have no knowledge of the specific question I asked about the records potentially in the possession of Mrs. Clinton?

MR. HOVE (?): None whatsoever.

SEN. BOND: Thank you, Mr. Chairman.

SEN. RIEGLE: Senator Boxer?

SEN. BARBARA BOXER (D-CA): Thank you, Mr. Chairman. I want to pick up on where Senator D'Amato left off with Mr. Howe.

Mr. Howe, as a Bush appointee, you were familiar, obviously, with the laws in those days regarding conflicts of interest, and you said that at that time there had to be a direct conflict of interest. And the appearance of a conflict of interest now is considered important, but at that time, that's not the way things were done. Is that correct?

MR. HOWE: That is correct, Senator.

SEN. BOXER: So the law was strengthened, and now you have to look at the appearance of a conflict of interest.

MR. HOWE: It's not a law, it's a procedure that we have at the FDIC.

SEN. BOXER: All right.

MR. HOWE: And at that time, we were looking only at the conflict of interest. Now we look not only at the conflict but also at the appearance of any conflict.

SEN. BOXER: Right.

Well, Mr. Chairman, I think this is a very important point. And what I would like to suggest is this; my colleague, Senator D'Amato, is very interested in this one particular S&L, which as I understand it, on the list of failures is the 194th largest in the country. I'm also interested in seeing if there were conflicts when lawyers were hired in some of the bigger closures.

For example, there were, as I understand it, 14 S&L failures that cost the taxpayers more than one billion [dollars] each. Of these mega failures, six were located in Texas, two in California, two in Arizona, one in New Jersey, one New York, one Florida and one Pennsylvania. And I would like to ask you -- and since I think the chairman said a senator can make a request -- that in these mega failures, these six, I would like you to go back and take a look at the law firms that we used at that time to see if there were conflicts of interest and have a -- and at the same time that you issue this to Senator D'Amato, I would very much appreciate knowing that because I do have a big concern about the scams that were going on at that time.

MR. HOWE: Senator, many of these cases probably were the RTC cases and not the FDIC. The reason that we had this case was that we inherited the FSLIC cases in late 1988 or early 1989. This one came to us at a window of time prior to RTC's being created. So I think that your request might better be directed toward the RTC.

SEN. BOXER: Well then I will make that request to the RTC and ask that we have that report. Would I make that to Mr. Altman or Secretary Bentsen?

Mr. Chairman, who do you think would be the appropriate party?

SEN. RIEGLE: Well, they both are hearing it, so --

SEN. BOXER: All right. Well, I will assume that will be done because, as I say, what I find most incredible is that there's this outrage directed at one particular situation, and it's so obvious why. You know, Mr. Chairman, I just want to say this, if I might -- I'll get back. I just have to say this, if I might. We all bring our experiences to the table, to our committees, to our work. And as I sat through this, I had the sense that this reminded me of something, the dynamics here, and it comes back to my being a mother and my experience in raising two kids, and when they wanted something, they made a pretty strong case.

And if they really wanted something, they stamped their feet. And if

I gave them what they wanted, I expected them to be happy because I acceded to their request. And if they kept on stamping their feet, I'd tell them, "You're unreasonable." And if they kept it up, I'd take further action. But I think what I see going on here is that there was a demand for the best and most impartial person to look at a situation that obviously had a lot of political overtones, and in an attempt to handle it fairly, that request was granted, and we don't know the end result.

But what I see happening here, Mr. Chairman, is that people are still stamping their feet as if nothing's been done. Something very important has been done. A lease has been taken on offices for something like four years. Eight attorneys are looking at this whole situation. Every question that's been asked by my colleagues is being looked at, not by a Democratic prosecutor, as Senator Kerry has pointed out, but by a Republican prosecutor, and someone who I believe has the faith of the American people, if not some of the senators here today, who seem to want to interfere in that investigation.

SEN. RIEGLE: Senator Boxer, I might just say, you may or may not have seen this in this morning's Washington Post, but there have been 25 FBI agents assigned to work with the special counsel, in addition to that legal staff that you cite.

SEN. BOXER: Yes. And, Mr. Chairman, I have to say that gives me great comfort. As much as I respect my colleagues' skill at questioning and badgering, I'd rather have this matter handled by someone who is so well-respected, cannot be accused of partisanship, as my colleagues on the Republican side here could be or I could be or Senator Kerry could be.

So let's stop stamping our feet, and let's say this is good, that this investigation is going forward. And I really do have faith that we will find out what the problems were. And we don't know where it all will lead, but I don't think that turning this hearing into a browbeating of witnesses here does any good here at all.

I have some written questions I would like to submit, but I would have to say overall I am pleased with the report that we're getting. It seems to me we're moving along, perhaps, hopefully, under budget, moving forward with women and minorities and the things that many of us care about, and going after these crooks.

Thank you.

SEN. RIEGLE: Do you want to say something? Otherwise I'm going here.

MR. ALTMAN (?): No, no. I just wanted to note to Senator Boxer that we would respond to that question that you earlier asked.

SEN. BOXER: Thank you. I really look forward to seeing that for those six institutions. Thank you.

SEN. RIEGLE: Thank you.

Senator Bennett.

SEC. BENTSEN: Mr. Chairman, if I might --

SEN. RIEGLE: Uh, excuse me.

SEC. BENTSEN: (Off mike) -- my responsibilities as secretary of the treasury to deal in oversight, and I'm specifically precluded from intervening in individual cases. That's the responsibility of the RTC.

SEN. BOXER: But the RTC will do that. Thank you.

SEN. RIEGLE: Senator Bennett.

SEN. ROBERT F. BENNETT (R-UT): Thank you, Mr. Chairman. I agree with Senator Boxer: we all bring our personal experiences to this. I will try to stop stamping my feet. (Laughter.) I think that's an appropriate response, but --

SEN. BOXER: You've just been tapping your toe. (Laughter.)

SEN. BENNETT: I've just been tapping my toe. I must, however, out of my own experience share with you the number of times that I as a loyal Republican went to the White House in the Nixon administration and kept saying "You have got to get this out. You have got to find out who is behind this an tell the truth." And I kept getting told "This is a third-rate burglary that nobody cares about." I'm sure on a list of breaking and entering -- (laughs) -- this would have -- the Watergate breaking and entering would have been considered very, very minor. And people kept saying to me, "No, no, it'll all blow over."

Well, it was members of your party, Senator Boxer, who kept stamping their feet and kept the thing up. A special prosecutor was appointed who in my recollection was a Democrat. I think Mr. Cox did not have very good Republican credentials when he was appointed to that circumstance.

SEN. KERRY: He was a Republican. One of the good ones from Massachusetts, but he was a Republican. (Laughter.)

SEN. BENNETT: He was a Republican? Well, I knew his law partner. He was a Democrat.

We need not beat this further, but I do hope everybody understands that when there is an allegation of wrong-doing the smartest thing any politician can do is get all the facts out on the table. I've tried to do that. When I've been accused of making mistakes, I've discovered that the very best thing you can do politically is not try to cover it up, and that's the only advice I give my friends in this circumstance, having lived through the Watergate thing on the other side of it.

SEN. KERRY (?): Can I just take 30 seconds to say to my colleague that's exactly what we did. Senator Moynihan, national television, Senator Bradley, Senator Bob Kerrey, myself and others said appoint a special prosecutor, and indeed, the White House turned around and did it while the president was in Europe.

SEN. BENNETT: I understand all that, but I also understand that the stamping of the feet that went on prior to that probably had something to do with that decision. I don't think it was entirely sound public policy on the minds of the people on the other side.

Let's get back to the RTC if I can. I do want you to refer carefully to the article that I put in my opening statement. You've talked a great deal about minorities and women, and I yield to no one in my desire to see to it that there is fairness done.

The allegations that were made by the gentleman from Denver, however, is that there is serious reverse discrimination going on in the RTC, and that anyone who does not fall in that category cannot get a job and cannot get a promotion. And if that is true, that is something I think you should pay attention to. So I would ask you to review that.

Now, make reference to continuing sales, and again, this is a personal circumstance. I've had a number of people come to me in Utah and say here is a marvelous investment opportunity to pick up at fire sale prices properties that can be enormously valuable. I have decided finally to divorce myself from having to make any investment decisions, and I put all of my assets in a managed trust and trust the trustees of that trust to make those kinds of decisions. But I said to them I cannot personally invest in this because I sit on the Banking Committee and it's involved in oversight of the RTC and these are RTC properties.

But I did, prior to creating the managed trust for my assets, go through the process of looking at them, and as a businessman, I can say you really are moving them very rapidly because it struck me that some of the prices were indeed unduly low and that the RTC could in fact have gotten a better price almost as quickly if not just as quickly as they were getting for some of these properties. Do you have a sense on that issue? I'm not accusing you of anything, I simply want you to talk about it.

MR. ALTMAN: Well, first of all, Senator, we have a statutory responsibility to maximize recovery for the taxpayer, so we must pursue sale techniques which respond to that goal.

Second, all RTC assets, for practical purposes, are sold at auction, auction of one kind or another. So rather by definition, the market -- the price which the market establishes on that day is the price. It's always possible to look back on any transaction and say you should have done it later or you should have done it earlier, but fundamentally all of our sales are on an auction-style basis.

I think the only other point I would make is that we're now in -- we now -- our inventory today is of the harder-to-sell variety as we're getting down toward the end. So our recovery rates, as I mentioned in my statement, are lower. I think last year we recovered at a rate of 76 percent of book value, and this year it'll be in the mid sixties. The character --

SEN. BENNETT: Let me just go back to your earlier statement. I understand what you're saying here, and I don't want to be argumentative about it. One instance, we were told -- or I was told that while it was technically an auction, the RTC had determined the price and that, if I would simply submit a bid for this price, I would be guaranteed to get it, that the RTC would not entertain any other requests. And I turned it down, as I say, for the reasons I've described, although I'll say to my colleagues, the ethics committee told me I need not have done that. I could have made the investment. I decided to avoid the stamping of feet later on in some future campaign in Utah. I would not run the risk. But it was my understanding that the people who did ultimately pick up the property did it for the price that we were told was the price. And we were told, "Yes, this is technically an auction; there will be a sealed bid, but this is the sealed bid we want and if you submit it at that price we can guarantee that you will get it."

MR. ALTMAN: I'd like to make points. The first is -- that's not how it's supposed to work, and if it worked that way -- just taking your comments in their entirety -- it should not have.

Second, the RTC does reserve the right to reject bids and to establish in effect reserve prices or floors. So, it isn't the case -- it isn't always the case that whatever the high bid is it's accepted. But, there should never be an auction where any such indication, any such knowledge is provided beforehand; if it was, it was a mistake and shouldn't have happened.

SEN. BENNETT: I'll just assume that it was a mistake in a particular circumstance, and I'm grateful to you for your response.

SEN. RIEGLE: Well, and perhaps a look could be taken at what may have been going on there, because that's not -- you know, let's not have it happen again.

Senator Sarbanes was not given a chance, was not here in the sequence to give an opening statement, and has asked to do so and I'm going to acknowledge that as I do with everyone. And then after he's done that, we'll start his time clock on questions. Senator Sarbanes.

SEN. PAUL SARBANES (D-MD): Mr. Chairman, I'll be brief. I don't want to impose on my colleagues, but I can't forego the opportunity with Chairman Greenspan here before us not to talk about interest rates just briefly, since I think they're so essentially involved with where the economy may be going. And I just want to -- I want to make a statement about that.

I've met with the chairman from time to time, both privately and of course in public sessions, and I've raised with him the concern that a hike in short-term rates would raise long-term rates. The chairman's position has been, as I understand it, that when short-term rates go up long-term rates would initially rise but that within a few weeks or so they would settle back down to a level near where they had been when short-term rates were raised.

We then contacted the Fed for the analysis that in effect was the underpinning for this statement. We've had difficulty getting that analysis, but it's finally been forthcoming. And as the Fed says, and I quote, the Fed staff, "As you have noted, short- and long-term rates do tend to move together." They then go on to make a rather subtle argument that to the extent that the Fed is ahead of the curve the response of long-term rates is less than when the Fed is moving too little too late, in responding to a build-up of inflationary pressure.

So in a sense, they're shifting, as I understand it, the position that was asserted to me by the chairman.

On the morning of February 4th when the Federal Open Market Committee raised the Fed fund rates from 3 to 3-1/4 percent, the 30-year bond rate stood at 6.30 percent -- 6.30. Since that time, long-term rates have risen steadily. As of the close of business yesterday, the 30-year bond rate was 6.65 percent. Thus, since Fed funds were raised, long-term rates have risen by 35 basis points; in other words, more than the 25-basis-point increase in short-term rates.

Now last summer at a hearing with Henry Kauffman (sp) and Paul Samuelson (sp), copies of which testimony were sent to the Fed and with a request that it be distributed to members of the Open Market Committee -- Henry Kauffman (sp) argued that raising short-term rates could lead to higher long-term rates; in other words, the contrary of this position that was asserted that if you take up short-term rates, you can bring down long-term rates. And I quote Kauffman (sp). "I also take issue with the assertion that a small increase in the Fed fund rate this summer would be welcome by the financial markets and would accordingly lead to a decline in bond yields. Perhaps. But equally likely is that the bond market would interpret such a rise in the federal funds rate as the first of a number of future increases, and market participants might easily react by pushing bond yields higher. Under that scenario, the rise in the federal funds rate could magnify inflationary expectations, precipitating a sell-off of bonds."

Now just today, Hobart Rowen, one f our nation's most perceptive economic commentators, has an article in the Washington Post headed, "The Fed Meddles," and I just want to quote from it briefly. "As it has many times in the past, the Federal Reserve Board is taking the country down the wrong road by raising interest rates. It has violated the dictum, 'If it ain't broke, don't fix it,' and as a consequence, the smooth recovery from recession that has cheered business and consumers over the past year is being threatened.

"Fed Chairman Alan Greenspan told the Joint Economic Committee in widely analyzed testimony January 31 that the central bank, which had allowed interest rates to fall to record lows, would not change policy to slow economic growth. But four days later, on February 4th, the Fed raised short-term interest rates by one-quarter of a point in a, quote, 'preemptive strike,' unquote, against future inflation. To make sure there was no doubt in the markets that the Fed had decided to interrupt the easy money pattern, Greenspan publicly announced the move.

"In new testimony this week, Greenspan failed to justify the Fed's action. He admitted that there was no discernible inflation, that wages are not moving up, that there is virtually no fear the economy is growing fast enough to make overheating a danger."

Now, the whole problem here -- and I -- this is to close this statement, and then I have just a couple of questions to put to Mr.

Altman. I won't take anywhere near my question time because I -- is all -- it's all encapsulated in this -- in this cartoon, which shows this truck moving down the road. It says "Economy". And the economy has been moving down the road, and we all want to see that. The driver here has got his hands up to his head in horror. He's slamming on the brakes. As you can see, "Brake. Screech," bringing this truck labeled "The Economy" to a halt. And the reason he's doing it is because out here in the middle of the street is a man labelled "Greenspan". (Laughter.) And he's bending over here. He's out in the middle of the road out in front of the truck, obviously forcing it to come to a screeching halt. He's bending over to pick up these papers here that say "Interest Rates." And he's saying, "Let's see, we'll just pick these up."

Now --

MR. GREENSPAN: You know, senator, I pulled a muscle in my back and I now just realize how I did it. (Laughter.)

SEN. SARBANES: Well, I'm glad we found the explanation for it, Mr. Chairman.

SEN. KERRY: You know, Mr. Chairman, if you say something really interesting now about interest rates you could functionally terminate this hearing and relieve us all. (Laughter.)

SEN. SARBANES: Mr. Chairman, I know that's not the focus of today's hearings, but I think this matter is of such importance. The Fed, of course, is urging the Congress to stay the course on fiscal policy. I happen to agree with that. I think we ought to stay within the constraints of the agreement that was reached last year, and I expect that we will. But by the same token, it's my own view that the Fed should have stayed the course on monetary policy, certainly until we had greater assurances that real growth was taking place in some lasting and permanent way and some evidence that one can look to that indicates that we're beginning to get some kind of inflationary problem.

Now, Mr. Altman, I just want to put a couple of questions to you. Earlier you were questioned by one of my colleagues on the other side who went through a list of -- (laughs) -- sort of "Have you stopped beating your wife" type questions, I thought. And so let me try to turn it around and get -- I want to be sure. Do I understand that the cases to which they're making such reference were handled in the same way that all other cases were handled -- in other words, according to regular procedures?

MR. ALTMAN: Senator, the instructions that I gave were that all procedures, normal procedures should be followed in this matter without any deviation.

SEN. SARBANES: And to your knowledge, that's -- I mean, to the best of your knowledge that's the case. Is that correct?

MR. ALTMAN: Yes.

SEN. SARBANES: Mr. --

MR. ALTMAN: Of course, I'm commenting as to the handling of the case under my responsibility. I'm not making a comment about matters that I have no knowledge of of three or four years ago.

SEN. SARBANES: Oh, I understand that, but as I understood the questions that were put to you, it was with respect to your own responsibilities. I don't how you could be expected to assume the responsibilities of others, so to speak.

Mr. Chairman, I just have one comment about the constant reference here to Madison and Whitewater and so forth. And that is that, you know, an independent counsel has now been selected. I read the transcript of his press conference with the Attorney General when it was announced. Actually, as I understand it, or as he said, he defined the scope of the investigation. In fact, he says, "I'm totally satisfied that I will have the independence and complete authority to do this job right."

And then the resolution by which his jurisdiction is defined, this is Robert Fiske now I'm talking about; "This resolution has been deliberately drafted broadly. It was drafted by me to give me the total authority to look into all appropriate matters relating to the events that bring us all here today." And he then goes on to specify that.

Now, of course, I think Fiske is regarded highly. In fact, Senator D'Amato called him "a man of unflinching and uncompromising integrity. He's the kind of person who will bring out the truth for the American people so there will be no question as to the thoroughness and objectivity of this investigation." I don't differ with that evaluation, I say to my distinguished colleague from New York, from what I know about Mr. Fiske and what's been told to me about him. So I think that's an accurate evaluation of him.

Now, the other point I want to address is, he was asked in that conference, "Do you think that a congressional hearing of any kind at this point might hamper your investigation?"

This was a question put to Fiske by a -- at that press conference when he assumed his responsibilities. And this was his response, and I quote him -- this is now Robert Fiske I'm quoting, the independent counsel:

"I think the history of these situations is that it is difficult to conduct this kind of investigation at the same time a congressional investigation is going on. The decision whether to have such an investigation obviously is not mine, but I think just looking back at the past, we can all see that that is not an easy relationship." End of quote.

And I just wanted to put that on the record, because I think it's very important to understand that, you know, an independent counsel now has been selected. The independent counsel has been given a grant of authority -- actually, according to his own testimony, he defined, in effect, the grant of authority. I haven't quoted it, but the attorney general is very clear here in her statements that he has a full scope to proceed as he deems necessary and to call upon any resources that he thinks are advisable. And it seems to me that, you know, we've put the matter where it ought to be put.

Now, there was some delay in getting to that point. I understand that. But that's the point we are at now, and it seems to me that that is -- ought to be reassuring to the American people that this matter will be looked into thoroughly and comprehensively and that Mr. Fiske and his associates -- and he's now in the process of putting together, I understand, a rather large and first-rate staff -- will get to the bottom of this matter. And I think it's very important that that be put on the record.

I thank the chairman.

SEN. RIEGLE: Thank you, Senator Sarbanes.

I made reference earlier -- I'd just take one moment before calling on Senator Faircloth. I made reference earlier to the actual legal charter of independent Special Counsel Fiske which is published in the Federal Register on Friday, February 4th, and I've read it. And it's really quite a -- I just hold it up here, and we'll put it in the record so that it's there in the context of this discussion. But this is about as broad and as firm a legal mandate as anyone could have. And I notice here that under the Department of Justice the action to accord him that kind of operating latitude was in the form of a final rule. So this locks it in.

I mean, this independent counsel, I think highly regarded across this board -- from Senator D'Amato's comments to others that have been made by other people who know him well -- has the authority to go anywhere he thinks it necessary to go. And I again make reference to that article today in The Washington Post, because he's obviously setting up subsidiary investigative efforts, where he's putting together teams to go down each and every issue so that there are no questions left at the end of his work.

In any event, I urge my colleagues to take a look at this, because I think it is instructive.

Senator Faircloth.

SEN. LAUCH FAIRCLOTH (R-NC): Thank you, Mr. Chairman. And I want to thank you for the manner in which you've conducted the hearing. It hasn't been easy.

I had one or two quick one-liners, and then I had some questions. (Laughter.) One of them is in sympathy with Mr. Altman. I bought and sold many a piece of land in my life. I never bought one that somebody didn't tell me I paid way too much for it, and I've never sold one that somebody didn't come immediately and tell me I should have gotten a lot more. But I survived.

MR. ALTMAN: You probably did very well.

SEN. FAIRCLOTH: Chairman Greenspan, I think -- two things. If we get nothing else out of all of this conversation, I believe it will demonstrate to the American people, and maybe to the Congress as a whole, that we need to keep the Federal Reserve, the Comptroller of the Currency, the Office of Thrift Supervision and the FDIC as separate entities, and it's well spent money to have them separate by the taxpayers' money to keep it as it is and not be consolidating it into a political position. I hope that's it.

As Senator Sarbanes mentioned on your increase in interest rates and inflation, I have observed over the years that inflation is somewhat like Alzheimer's disease; you've had it three or four years before you find out you really have it. And inflation moves before we -- it goes underground a long time. So I think you're absolutely right in increasing rates in anticipation of what might happen. I have found that inflation -- a recession will scare you -- in business, a recession will scare you to death, but inflation will kill you.

And I have a question for Mr. Hove.

Mr. Hove, it's my understanding that Webster Hubbell, in his current position as associate attorney general, and in his words, "chief operating officer" at the Justice Department, has formally recused himself from matters regarding Madison Guaranty. Would you agree with me that it would be improper for Mr. Hubbell to seek to involve himself in the FDIC investigation beyond what he was asked by the Legal Division?

And if you will -- since that light is looking at me -- I'd like yes or no answers, if you would.

MR. HOVE: I think the issue of Mr. Hubbell recusing himself is an issue that Mr. Hubbell has to deal with.

SEN. FAIRCLOTH: Fine. Have you had any communication with Webster Hubbell concerning the Legal Division's report?

MR. HOVE: I have not.

SEN. FAIRCLOTH: Are you aware of any communication between Webster Hubbell and an FDIC official in the general counsel's office regarding Mr. Hubbell's role in the Legal Division's then-pending investigation and report?

MR. HOVE: Yes, sir. Legal Division has had conversations with Mr. Hubbell.

SEN. FAIRCLOTH: Are you aware of any communication between an official in the general counsel's office in Washington and the FDIC official in the Kansas City, Missouri field office regarding Webster Hubbell's role in the then-pending investigation and report?

MR. HOVE: No, I'm not aware of that.

SEN. FAIRCLOTH: Would you be willing to let the general counsel's office release their telephone records for the week of January the 24th through January the 31st?

MR. HOVE: Senator, we're willing to release any non-confidential information that would be generally available to the public. As you might know, many of these things would be privacy concerns and we would be concerned about releasing those without redacting some.

SEN. FAIRCLOTH: So you would not release them?

MR. HOVE: No, sir, we will release them, we will release any non-confidential --

SEN. FAIRCLOTH: All right, that's -- who decides whether it's confidential or not?

MR. HOVE: Well, does it include -- does it deal with privacy of the individual.

SEN. FAIRCLOTH: Well yes it does, but we need -- yeah, sure it does. That's what we want them for. (Laughter.) Will you?

MR. HOVE: We'll release anything that is publicly available, yes, sir.

SEN. FAIRCLOTH: Well, it's not publicly available or we wouldn't be asking for it to be released. If it were in the want ad section, I'd have gone there to get it.

MR. HOVE: Yeah, we have log of everyone that we've contacted, everyone we've talked to on the phone, and we'll release that.

SEN. FAIRCLOTH: All right. Okay, that's what we need.

I see in the Wall Street Journal and the Chicago Tribune, and it's generally out, that you found no conflict of interest between Ms. Clinton and her work in the Dan Lassiter (sp) and First American Savings and Loan, that you find her completely innocent.

MR. HOVE: Senator, let me talk about that issue because that was not an FDIC issue, and that was not an investigation or a review that the FDIC has done. That was an issue that happened before FDIC ever became involved. That was an issue between the old FSLIC -- the old Federal Savings and Loan Insurance Corporation and the failed savings and loan, First American in Illinois.

They had filed the suit against Lassiter (sp). They had settled that suit before FDIC ever became involved in that. It was an issue that had happened way before FDIC ever became involved in it.

We have not reviewed that. We have looked at --

SEN. FAIRCLOTH: May I ask one quick question?

MR. HOVE: Yes.

SEN. FAIRCLOTH: Who settled it? Ms. Clinton and Foster? Is that -- it was settled -- you say it was settled. It was settled by Ms. Clinton and Foster.

MR. HOVE: I'm not sure that it was settled by Mrs. Clinton. Mrs. Clinton's involvement was to sign an amended complaint for Mr. Foster that amended the complaint from the savings and loan against

Lassiter (sp). That was her only involvement in that case.

SEN. FAIRCLOTH: All right, go ahead. I'm sorry, I interrupted you.

MR. HOVE: That case was settled over six years ago by the conservator. The conservator for that savings and loan had hired a law firm in Chicago. The law firm in Chicago subcontracted the Rose law firm to work on this case for them as the conservator. The lawsuit was settled before we ever got it, and normally these facts would not trigger an investigation for us, but because of the increasing public interest -- and if you choose, we will conduct an IG investigation to determine that -- but again, the records are scattered all over because it's the old FSLIC records and they were not compiled in any one location. So it's a very difficult issue. It -- there's no single repository of these records. And we'd be willing to assist your staff in locating any of these records that may be available and to make some determination as to what the involvement was.

SEN. FAIRCLOTH: So this clearing of Ms. Clinton in any involvement with the American Savings and Loan and Dan Lassiter (sp) was done by the FDIC, it was done by the --

MR. HOVE: We have not cleared it. The only contact we've had on the First American Savings and Loan and the Lassiter (sp) case was a press contact that came as a result of an article that appeared first in the Chicago Tribune, and we responded to that saying exactly what I've told you, that this was not an FDIC issue, that it was in fact a FSLIC issue that occurred before FDIC ever became involved in any FSLIC issue.

The issue was settled, the settlement was made before FDIC ever became involved in this issue.

SEN. FAIRCLOTH: All right, so -- but the -- would the statute run on it, could it be opened by the special counsel?

MR.   : I haven't any idea. That's a question I guess I'd have to ask my attorney.

SEN. FAIRCLOTH: Ask him.

MR.   : (Confers.) I don't know.

MR.   : I have no idea either.

MR.   : We don't have enough records at this stage to know --

SEN. FAIRCLOTH: Thank you.

SEN. RIEGLE: Although I'll repeat again, and you'll read it from this Federal Registry (sic): "The independent special counsel has two authorities. One authority is for criminal prosecutions. The other authority is to proceed with civil actions."

Now, the civil authority doesn't relieve any other regulatory body of whatever civil action they might appropriately take. But the point is, the special counsel has the specific grant of authority to proceed down both tracks. And it's laid out four different times in this charter of responsibility, and it's a very important point.

SEN. D'AMATO: Will the chairman yield? Just on that point, because to be quite candid with you, until the chairman read the grant of authority, I was given to believe that the special counsel would confine himself to the criminal side. I'm not suggesting to you that the grant may not give him broader powers.

I would think it would behoove us, and I'm not attempting to get the exact language determined now, but if we could not, send a letter from this committee and ascertain, indeed, will he undertake the review of various civil matters, such as the one brought up as it relates to this last matter that Senator Faircloth brought up, and there are some others. I think that would at least set the record straight and we might want to put that to him and, again, have our counsel work together to put forth the appropriate question. But I think we should determine, indeed, is that the case.

Secondly, I make a quick point, and I beg the indulgence of my colleagues, by stating, I think that if you notice, at least where I have been attempting to take this, and I think some of my colleagues, we're attempting to ascertain what if anything did the RTC, did the FDIC, do in connection with these matters. That is not at variance with the charge of the special counsel. We are not, in attempting to find out what was done and what wasn't done, in any way disturbing his investigation. I think we have an absolute right to know what was done. We have an absolute right to know the appropriateness of the action, so --

SEN. BOXER: Can I have a point of procedure? Whose time are we on? I just was -- I've lost track.

SEN. D'AMATO: Well, I'm going to do it one way or the other.

SEN. BOXER: Well, I don't have any objection to your doing it. I'm just confused. Is this Mr. Faircloth's time that you're on? Or is this added time, so we can all get added time?

SEN. D'AMATO: I asked the chairman if he would indulge me so I could --

SEN. RIEGLE: He asked the indulgence of the chair and I'm going to let him finish his point.

SEN. BOXER: Okay, fine.

SEN. RIEGLE: And then we'll move to the next person here.

SEN. BOXER: I was just checking.

SEN. D'AMATO: So, again, this is not an attempt to do anything other than to see what has been done to date by those various agencies that have the collective and the individual responsibility to deal with these matters. That's one.

And secondly, it would seem to me that it might clarify the issue -- certainly I was led to believe, and maybe incorrectly so, that the special counsel was not going to look into civil matters. I think it's important for us to ascertain that.

And so I put that to the chairman that possibly we review that matter. I'm not looking for an answer at this time --

SEN. RIEGLE: Well, I'm going to just -- I'm going to take a minute and just read it into the record because I don't want it to be --

SEN. D'AMATO: No --

SEN. RIEGLE: I know, but it's important, and the words are on paper, and this is the official charter. And I'm going to read from page 5221 of the Federal Registry of February the 4th of this year, and I'm going to just read three or four different lines here that appear in different places, and here's the first one: "The attorney general has appointed this independent counsel to investigate whether any individuals or entities have committed a violation of any federal law or civil law." And then it goes on in that vein. And then over on the next page it says again "... have committed a violation of any federal criminal or civil law relating to ..." And then again it says "... any violation of any federal law or civil law." And it says it one more time further on down the line here.

So it's clear -- my interpretation of this is that this does not relieve any regulatory body of any proper actionable efforts that it should properly undertake and determine to undertake, but it says that the special counsel clearly has the authority to move down both tracks if in his judgment he should find that that is warranted. And it's a very important fact.

SEN. DOMENICI: Mr. Chairman --

SEN. RIEGLE: Senator Domenici, let me just say the time -- we're at the point now where either you or Senator Gramm will get to ask questions, and you -- you're both here, and I don't know if either of you have a -- one will follow the other, but will either of you have a time problem as to who goes first?

SEN. DOMENICI: Well, I just wanted to ask you with -- on that question on your charter interpretation there, or reading --

SEN. RIEGLE: It's not an interpretation, it's what -- it's the final rule that was laid down on the --

SEN. DOMENICI: Well, what is -- what is the special prosecutor supposed to do if he finds civil law violations?

SEN. RIEGLE: He has the full legal empowerment to take whatever actions he deems necessary -- and all the investigative and prosecutorial authority to do so. I mean, this is an absolute charter.

SEN. DOMENICI: We'll -- we'll -- thank you very much for that.

SEN. RIEGLE: You can take a look at it.

SEN. DOMENICI: Senator Gramm, I have a little bit of time, although I'm late for some events. But if you want to go, I'll let you go and I'll follow. It --

Will there be another one from the other side that has not inquired yet?

SEN. RIEGLE: No. You are the last two that have a chance to question, so --

SEN. DOMENICI: Well, go ahead. Could you keep it brief, senator? Short?

SEN. RIEGLE: -- and then we'll go back and forth, senator.

SEN.   : No.

SEN. DOMENICI: No? (Laughter.)

SEN. RIEGLE: Senator Gramm.

SEN. PHIL GRAMM (R-TX): You want to go ahead?

SEN. DOMENICI: No, you go. You got the time clock right there.

SEN. GRAMM: Let me begin. I've just got a simple question that I want to ask of most of the members of the panel, and let me just read it. Mr. Altman, I want to ask you first. Have you or any member of your staff had any communication with the president, the first lady, or any of their representatives, including their legal counsel or any member of their White House staff, concerning Whitewater or the Madison Savings and Loan?

MR. ALTMAN: I've had one substantive contact with White House staff, and I want to tell you about it.

SEN. GRAMM: Okay, let me, if I may, just -- given that "yes" I'd like to know what the substance of the communication was, when it occurred, who initiated it, and what you were asked to do.

MR. ALTMAN: Right. First of all, I initiated it. About three weeks ago, Jean Hanson, who is Treasury's general counsel, and I requested a meeting with Mr. Nussbaum -- he's the White House counsel.

The purpose of that meeting was to describe the procedural reasons for the then impending February 28th deadline as far as the then statute of limitations was concerned. I'm sure you know that that statute of limitations has subsequently been retroactively reinstated for certain types of civil claims.

And we explained the process which the RTC would follow in reaching a decision before that February 8th deadline, that it would be exactly identical to procedures used in any other cases, any other PLS case, and that the RT fundamentally would come to a conclusion as to whether or not there existed the basis for a claim or whether there didn't. And in the event that the basis for a claim existed, then it would pursue either a tolling agreement, which is the equivalent of a voluntary extension of the statute of limitations from the parties at interest, or it would file that claim in court.

That was the whole conversation. I was asked one question. That was question was whether we intended to provide the same briefing to attorneys for the parties at interest. I said I assumed so, went back -- (inaudible) -- and checked with the RTC general counsel. The answer was in due course. I said fine. That was it. I have not had any contact with the president of the United States or the first lady on any matter like this.

SEN. GRAMM: If I may, let me pose the same question to Mr. Hove. Have you or any member of your staff had any communication --

SEN. RIEGLE: Mr. Hove, let me just -- I don't know if you know. This question's being addressed to you.

SEN. GRAMM: Have you or any member of your staff had any communication with the president, with the first lady, with their representatives, including legal counsel, with members of their White House staff concerning Whitewater or Madison Savings and Loan?

MR. HOVE: Our director of the Office of Communications at the FDIC had received a call from a press person at the White House after the second article appeared The Chicago Tribune regarding the First American issue. They asked, did we have any statement? And the response given to the White House was, no, we did not have any statement.

SEN. GRAMM: So they were asking you to respond to the press statement?

MR. HOVE: It was Mrs. Clinton's attorney.

SEN. GRAMM: Mrs. Clinton's attorney --

MR. HOVE: I'm sorry. It was Mrs. Clinton's attorney --

SEN. GRAMM: -- called you?

MR. HOVE: It was Mrs. Clinton's attorney that called the FDIC Office of Communication.

SEN. GRAMM: So Mrs. Clinton's attorney called the FDIC and asked you to respond to a press --

MR. HOVE: No, no, that's not what he said.

SEN. GRAMM: Well, I'm asking the question.

MR. HOVE: Yeah. No, but that -- but --

SEN. GRAMM: I'm not trying to speak for you.

What did Mrs. Clinton's attorney ask you to do?

MR. HOVE: They asked did we have any statement, and we responded, no, we did not have a statement.

SEN. GRAMM: Would it be normal that someone's -- did this attorney work for the federal government?

MR. HOVE: No. This was Mrs. Clinton's attorney.

SEN. GRAMM: When did this call occur; do you know?

MR. HOVE: After the second article appeared in the Chicago Tribune, and I can't tell you the date of that. It's been in the last, what, two weeks or so? I don't know.

SEN. GRAMM: And you were asked if you had a response that you were going to put out on it; you said no.

MR. HOVE: That's correct. We responded to the first statement, the first article that appeared in the Chicago Tribune, pointed out the errors of that article, that it was not an FDIC matter, exactly the same thing that I responded to Senator Faircloth.

SEN. GRAMM: And to the best of your knowledge, you've had no other communication, you and your staff have had no other communication with all the people that --

MR. HOVE: That's correct.

SEN. GRAMM: Let me pose the same question to Mr. Fiechter and to Ms. Ford.

MR. FIECHTER: To the best of my knowledge, I know I have and OTS staff has had no communication whatsoever with anyone from the White House about this or that list that you included in your question.

MS. FORD: No, the Oversight Board nor I have had any involvement in this matter.

SEN. GRAMM: Let me raise a second question, and it's a thing that I've tried to understand in looking at where we are and what we need to do to get on with finishing this matter. Part of the problem that we have had in the past with regard to congressional hearings and congressional involvement really hs involved two things. One has been the granting of immunity by congressional panels for people who would testify. The other is that under the Constitution, the testimony of a member of Congress is a privileged matter that is given special treatment. In this case I'm not aware that anyone in holding a congressional hearing or looking into this matter would be talking about -- I don't know of a committee that would be empowered to grant immunity. No such resolution has passed the Congress. We're not talking about a member of Congress, where there's special constitutional provisions.

I'd like to just pose the question: What would be wrong with letting members of this committee that have oversight responsibility look at the records in this case or any other case where we have oversight responsibilities?

Mr. Hove, let me pose that to you and Mr. Altman, and then I see my time is up and I'll stop.

MR. HOVE: Our position is that we will make access available, and we have, to Congressman Leach, to all information that is, again, non-confidential documents.

SEN. GRAMM: How would you define what is confidential?

MR. HOVE: Again, those that would -- (pause) -- those that would involve privacy information that would be non-germane to this issue.

SEN. GRAMM: And you would make that judgment?

MR. HOVE: Yes.

SEN. GRAMM: Mr. Altman?

MR. ALTMAN: First of all, Senator, we have already provided volumes of documents to the Congress. Senator D'Amato referred at the very beginning to documents he received last evening, and I would have liked him to receive them earlier, but we only got the request last Friday.

But in terms of Congressman Leach, who has also received those documents, he has had them for some time -- if my memory serves, 6,500 pages -- the RTC has been asked not to make information about criminal referrals in the Madison matter public, and it's standard practice not to release information of that kind or any other which might compromise a criminal investigation.

And of course, we're cooperating with the independent counsel to try to assure that we don't release any information which would jeopardize his investigation. And as I said earlier, I would think you would not want us to do that in order that that investigation should proceed as it should.

SEN. GRAMM: Mr. Chairman, if I could have your indulgence, I've got here a text of a newspaper article in Phoenix that contradicts something that Mr. Hove said, and I'm sure he doesn't want to let it stand. I've got a response, apparently after the second article, where the agency -- the FDIC did in fact make a statement. It says the agency said Mrs. Clinton's involvement in the case was not extensive enough to constitute a conflict of interest under rules governing federal regulation of savings and loans.

I've got this if you would like to see it.

MR. HOVE: Was that after the second -- we made a comment -- we made a public comment after the first article appeared --

MR. HOVE: Okay, and I don't know when those articles appeared.

SEN. RIEGLE: Why don't you take a look at it, and let's go to Senator Domenici and then --

SEN. GRAMM: (Aside) -- When did the other one occur, what's the date on the other one?

MR. HOVE: Senator, we commented after the first article appeared to correct any inaccuracies that was in the report. The involvement that Mrs. Clinton had in that case was, again, as I mentioned to Senator Faircloth, that she signed an amended complaint for her partner, Vince Foster, who was the attorney who was involved in the case. That involved two hours that was billed on Mrs. Clinton's part on that case in which she signed the amended complaint.

As far as we can determine from the records we have, that was the involvement that she had had, and that's what we released at the time.

SEN. GRAMM: Well, if you would take a look at this and just let us know in writing if this was the second one, how the response was made, who made it, why they made it, it'd be fine.

Thank you, Mr. Chairman.

SEN. RIEGLE: Senator Domenici.

SEN. PETE V. DOMENICI (R-NM): Mr. Altman, Stanley Tate (sp) was nominated by President Clinton to head the RTC, and while preparing for that confirmation he was at the RTC in a consulting capacity. That's all true, isn't it?

MR. ALTMAN: Yes, sir.

SEN. DOMENICI: When he withdrew his nomination, he attempted to release to the public materials he had prepared containing the RTC operations. Are you and the board familiar with the document that I refer to?

MR. ALTMAN: Generally, sir, yes.

SEN. DOMENICI: Why did the oversight board prevent Mr. Tate (sp) from releasing that document?

MR. ALTMAN: Well, first of all, it was released.

SEN. DOMENICI: Well, you released it -- when he left it was not released and you claimed it should not be released. But then eventually you provided the document to Senator D'Amato, I believe, or my office, but that was December 23rd, 1993. Why was it not released when he wanted to release it?

MR. ALTMAN: Well, senator, my recollection is that it was released rather promptly. Maybe not the day after he submitted it, but as a federal employee -- consultant, the materials properly would be -- were reviewed by his superiors before being released. But I think the point is they were released in short order.

SEN. DOMENICI: Well, did the RTC or the oversight board alter, edit, or sanitize this document before releasing it? And let me say if not, why did Dietra Ford, oversight board executive director, send a memo -- and I have that -- dated November 30th to you about these materials which included the following sentence: "I'm forwarding the enclosed so that you can see the original materials and fully understand the disaster we narrowly avoided."

Those last -- that last sentence is a quote. What was the disaster that Mrs. Ford was referring to? Was this a reference to Madison? If it wasn't, fine. If it was, I think maybe we ought to know about it.

MR. ALTMAN: Senator, you should ask Mrs. Ford that question.

SEN. KERRY (?): You may not like the answer, but --

SEN. DOMENICI: Well, I just got this letter, and it deserves an answer. If it's not what I want, that's fine. That's what we're here for.

MS. FORD: We received the 200-page document the morning of his press conference, and we had only a quick time to take a look at it at the Oversight Board. The deputy general counsel of the Oversight Board and I advised --

SEN. : Pull the microphone up.

MS. FORD: We advised Mr. Tate that the material should be reviewed by the Oversight Board staff, myself, as well as the interim CEO, Mr. Altman, before they are released to the public and that he was a federal -- special federal government employment and, therefore, he was subject to the rules that apply in terms of ethics, the Office of Government Ethics, that applied to the release of documents which he obtained during his tenure as a federal government employee.

SEN. DOMENICI: Well, what's what your letter says.

MS. FORD: That's right.

SEN. DOMENICI: But what was the "disaster that we narrowly avoided"?

MS. FORD: It was my interpretation that, to release those documents before anyone in the Oversight Board staff, the attorneys involved, or -- who advise us, have a chance to look at them, was inappropriate. And that's my choice of words -- "disaster." I think it's inappropriate to release documents before we know what they contain.

SEN. DOMENICI: I thank you.

Let me quickly move to a couple of other ones if I might.

Mr. Altman, I think you told Senator Bond that you would not make available any documents that, quote, "would have a negative impact on the legislation," closed quote.

MR. ALTMAN: No, I don't think so.

SEN. DOMENICI: No?

MR. ALTMAN: I said -- I think I said that we would try not to release any documents that would have a prejudicial effect on the investigation.

SEN. DOMENICI: Well, this committee held hearings on the failure of the Bank of New England in the context of an unsuccessful confirmation hearing on Bob Clarke. This committee explored in detail transactions related to that bank. Voluminous documents were made available. Maybe this is distinguishable, but it seems to me that the same question could be asked here. Why can't you release all of these documents for this kind of hearing?

MR. ALTMAN: Senator, we have had -- or I am advised we have had a couple of conversations with Mr. Fiske, the independent counsel. He has asked us not to release any documents that could jeopardize his investigation. I don't know why you would want us to do that, to jeopardize his investigation. We certainly don't want to.

SEN. DOMENICI: I don't want you to.

MR. ALTMAN: And we're respecting his request.

SEN. DOMENICI: But if the special prosecutor has no objection to the committee being provided copies of documents, can the committee then count on the RTC's full cooperation in providing them.

MR. ALTMAN: You should direct that question to Mr. Fiske.

SEN. DOMENICI: No? If he has no objection, then can we count on you to release them?

MR. ALTMAN: I think the answer is yes.

SEN. DOMENICI: Does the RTC have an inspector general?

MR. ALTMAN: Yes, sir.

SEN. DOMENICI: Has the inspector general investigated the conflict-of-interest allegations regarding the Rose firm?

MR. ALTMAN: I don't know the answer to that.
I'm nearly certain it's no because, as you know, it wasn't the RTC that ever had any retainer relationship or other relationship with the Rose firm.

SEN. DOMENICI: But you're kind of the natural successor to what went on there, and I believe -- I think when you took over you began some investigation of that. We'll show you that in a minute. But my question is, if the FDIC agreed to have its IG look into Madison, would there be any reason why you wouldn't?

MR. ALTMAN: I have no objection to the IG's looking into any matter that he sees fit to look into or that he's requested on an official basis to look into. That's what he's there for.

SEN. RIEGLE: Senator Domenici, I don't want to be arbitrary, but I do want to try to stay on the time clock if I can as we go back and forth, and we'll continue until everybody's had a chance to cover everything they want to cover today.

SEN. DOMENICI: Thank you very much, Mr. Chairman.

SEN. RIEGLE: Chairman Greenspan, I want to come back to the interest rate situation because we had an opportunity to talk the day that the Fed took its first step, after that was taken, and I'm concerned about the question of what has happened since and just your own expectations of what might happen, what has happened. You've made further public comments in a hearing recently.

I'm just wondering, as you watch market reactions to the tightening move that the Fed made, are you seeing essentially what you expected or have you seen something that -- particularly in terms of the uptick on the long rates -- something that maybe you would not have expected? In other words, where are we now, and how do you read what seems to be taking place as a reaction to the Fed's policy adjustment?

MR. GREENSPAN: Mr. Chairman, as Senator Sarbanes indicated, my expectation was on the basis of what has historically tended to be the case, that the type of increase that we've had would initially lead to some small increase in long-term rates followed by some edging off. That's basically been the history, other things equal, and that's essentially what one endeavors to use so far as a forecast is concerned.

What occurred in the interim was, as I indicated to the subcommittee of the House the other day, is that there was a growing concern that after the torrid pace of economic growth in the fourth quarter, which is apparently in the process of being revised up, that the possibility that we would not be moving to a much more moderate rate of growth was rising, and the first evidence that that was affecting market perceptions was when the Philadelphia Federal Reserve Bank released its monthly survey, which showed a significant increase in prices paid by manufacturers for the month -- I suspect it's early February.

The point at which that release was made, the long-term rates were very slightly above where they had been previous to the February 4th move. But what occurred following that was a general belief that the pace of economic activity may turn out to be somewhat stronger than most of the people in the market had anticipated.

And to repeat what I said at the House Banking Subcommittee, that change in view in the market's perception led to a significant backing up of long-term rates, which is what typically happens when those types of expectations change.

As I said then, my impression of how one should interpret that

Philadelphia report is more an indication of a pick-up in economic activity because commodity prices tend to be reasonably good proxies for new orders and indeed I think that's what essentially that particular report was showing. It is not a particularly good forecaster of inflation. And as I said at the House committee, we seem to be lacking the financial tinder that usually is associated with inflation accelerating when you get a significant pick-up in economic activity.

I'm agnostic at this stage. I think it's too soon to make a judgment, but we will learn a good deal more as the data begin to come forward.

SEN. RIEGLE: Well, but as I listened carefully to what you were saying, it seems to me when you say you don't see the inflationary tinder and that you're sort of an agnostic, I mean, I gather you're saying you don't see, yet, a broad evidence of a build-up of inflationary pressure that really worries you. I mean, I -- or is that not a -- I mean, put it in your words, but I'm just --

MR. GREENSPAN: No, that is substantially correct. Look, the reason that we moved on February the 4th, and the reason I said we may have to move again, rests on the issue of having deliberately put through a significant degree of accommodation in the money markets after 1989 because we perceived that there were special balance-sheet factors and other headwinds which required that we move the short-term interest rates below where they normally would reside.

And when it became apparent that the adjustments that we thought would occur and in fact have been occurring in the balance sheets got to a point where the economy could start to regain its momentum and gain a degree of expansion which seemed to be well entrenched, at that point the need to have excessive accommodative policies no longer exists. The issue is not, do we see inflationary pressures emerging, BUT what is the reason why we would want to keep the level of accommodation at a point where history tells us, if extended indefinitely, eventually does engender inflationary pressures.

So, it's the issue -- I would reverse the question, not do we see inflationary pressures, but what reason would we have, once the recovery seems well entrenched, as indeed I believe it is, would we wish to keep an excessively accommodative stance? That is not a statement which says we are setting inflationary pressures emerging; indeed, as I said in my prepared remarks to the House committee, when we actually see inflationary forces emerging in the way of price changes which are clearly evident, the one thing we're sure at that point is we are very far advanced in the process, and history tells us that that type of policy which we engaged in much too often, is wholly inappropriate to maintaining long-term economic stability.

SEN. RIEGLE: Well, let me just say to you I find that a very important clarification and point that you've just made. And I think it puts this in a somewhat different light than some of the commentary, I think, has given to it because what I hear you saying is is that you've -- you've had a monetary policy that has been overly accommodative in order to try to get sort of the engine going again and that you overcorrected in a sense --

MR. GREENSPAN: Deliberately.

SEN. RIEGLE: -- deliberately. And now that it has gotten the traction that it needs to have, as far as you can tell, you're taking back some of that overcorrection but not for reasons of the fact that you see this inflationary tinder building up here.

MR. GREENSPAN: Precisely. And, in fact, I've tried to make that point every time I've stated this, and I somehow don't seem to get it across as well as I think I would like to.

SEN. RIEGLE: Well, I think you got it across pretty well right now, and we've got a pretty good sized press table that I hope will have gotten it down even though it's 20 to two, which is sort of a late hour for us to all be meeting here -- (laughter). But I thank you for that. I think that's a very important distinction, and I think it's important for the economic system and the markets to understand what you've just said.

Senator D'Amato.

SEN. D'AMATO: Thank you, Mr. Chairman. Mr. Chairman, I have to say to Mr. Altman that I would like to go back to a question that Senator Gramm brought up and -- as it relates to any meetings with White House staff or counsel.

Mr. Altman, I think you said that you and a -- an official from Treasury sought out Mr. Nussbaum. Is that -- is that correct?

MR. ALTMAN: Yes, I did.

SEN. D'AMATO: Could you tell us why? In other words, I have difficulty understanding why it is you felt compelled to seek out the White House counsel.

MR. ALTMAN: Solely to ensure --

SEN. D'AMATO: Solely to -- ?

MR. ALTMAN: Solely to be sure that he understood the legal and procedural framework within which the RTC was working. And if you recall, as I said at that time, it was a February 28th date which was the subject of major attention in the Congress and in the press. It's not uncommon of meetings of that type to take place. And I'd describe it as a "heads up" and a very stiff conversation.

SEN. D'AMATO: A "heads up". In what connection would that heads up be? You mean that the statute of limitations was running?

MR. ALTMAN: No, that they should be aware of the internal processes and the types of criteria which the RTC was going to be following in order to reach a decision by February 28th.

SEN. D'AMATO: Was any representatives of the president or Mrs. Clinton or any legal counsel -- which I think would be appropriate -- speaking to the counsel for the RTC, or people handling this particular -- this particular matter?

I mean, was there any legal representation going on? Was this -- you just called them? Did they have any representatives, any counsel who may have been meeting with staff people or talking to staff people?

MR. ALTMAN: I was accompanied by our general counsel, Treasury general counsel. Mr. Nussbaum had his assistant with him. And Mr. Ickes and Margaret Williams were both at the -- there at the time.

SEN. D'AMATO: Oh, Ickes is in it, huh?

Let me ask you this: Prior to this meeting, was there any representation -- was there any counsel that was being given representing the president's interest or Mrs. Clinton's interest or anyone else that you're aware of as it relates to the matter that you went to brief them on?

MR. ALTMAN: No, not to my knowledge. Nor were there any substantive conversations -- subsequent conversations.

SEN. D'AMATO: Did anyone request this meeting?

MR. ALTMAN: I requested the meeting.

SEN. D'AMATO: Was there any other meeting that may have been requested?

MR. ALTMAN: No.

SEN. D'AMATO: There was no other meeting that you are aware of that the White House counsel requested?

MR. ALTMAN: No.

SEN. D'AMATO: Or anyone else from the White House?

MR. ALTMAN: No.

SEN. D'AMATO: Mr. Ickes?

MR. ALTMAN: I had no subsequent -- I received no subsequent requests for meetings.

SEN. D'AMATO: Well, what about private counsel? Did private counsel -- I find it hard to believe that there was no private counsel. Are you saying to me that there was not even private counsel that was meeting with staff lawyers at some level?

MR. ALTMAN: Not to my knowledge, Senator.

SEN. D'AMATO: Ms. Ford, do you know of any?

MS. FORD: No, I've had no involvement.

SEN. D'AMATO: Let me turn to the RTC report which was dated February 8th, which we received last evening about 9:00 -- Resolution Trust Corporation -- and say to you that, in reviewing this document, I think it goes a little further -- does a little better job than the one that came out of FDIC. I found it interesting that in its conclusion on page five and six, in its summary before it reaches its disposition, it says, A, Rose represented Madison prior to its failure; B -- and I am not reading the whole sentence -- Rose represented the FDIC/RTC subsequent to the failure of Madison; C, Rose did not disclose its representation of Madison before the Arkansas Securities Department to the FDIC or the RTC. Further, it did not report possible conflicts involving the brother-in-law and father-in-law of Webb Hubbell. And, by the way, I'm going to, Mr. Hove, read something to you that's quite illuminating. You better have your lawyers take a look at this. And when it gets all done doing that, it says, based on the factual conclusions in the RTC conflicts report -- it says we send it to counsel.

Now, I have to tell you that I am going to ask -- because you have no conclusion. It just says, "These are the facts; these are the facts, fellows. Now, you do with it what you want" and sends it to counsel -- general counsel. I'm going to ask that this report and any other relevant material that was gathered by those who were working on it be submitted to the inspector general. And as you've indicated before, you certainly wouldn't say, "I don't see any -- how that would impede anybody or anything." But I certainly would feel more comfortable that it goes to the inspector general as opposed to the general counsel. And I think it would guarantee the integrity of the review, certainly in this senator's mind and I think in others.

MR. ALTMAN: Fine.

SEN. D'AMATO: I thank you very much. I see that my time has expired. I have another observation to make, and I'll do that after -- at the appropriate time.

SEN. RIEGLE: Senator Kerry?

SEN. KERRY: Well, let me ask my colleague, is that going to be the last -- I mean, or is there intention of colleagues to go a whole other round?

SEN. D'AMATO: I think some colleagues have some other questions, and they'll raise them whenever --

SEN. RIEGLE: I think maybe we're going to have one more go-around here with those that are left who want to do so. And then I think we're probably done here.

SEN. KERRY: It was my understanding that we were going to have another hearing here in 10 minutes, which I'm also supposed to participate in. I'm just curious what the plans of the chairman are. If my time could not -- I'm just --

SEN. RIEGLE: They have a different room that they're meeting in --

SEN. KERRY: All right. So that's --

SEN. RIEGLE: -- so that we won't run into a room conflict. But we are late in the day, and the witnesses have been here a long time. So my intention would be to finish up a round here where everybody gets anoter turn at bat.

SEN. KERRY: Well, maybe I could ask another -- just procedurally. I don't want to really use my time at this point. But it seems to me that maybe we could ask if anybody has any more questions to ask of the chairman of the Federal Reserve, because it seems not a great use of his time to sit here if all we're going to do is talk about another subject.

SEN. DOMENICI: I -- is my turn imminent here? Or do I have a long wait?

SEN. RIEGLE: Let me get my batting order here.

SEN. DOMENICI: Because I don't want to keep him a long time, but I wanted to --

SEN. RIEGLE: Actually, you follow Senator Bond, who will come after Senator Kerry. Then we'll come back to Senator Boxer. So actually there are --

SEN. : How long is your question? Maybe they would let you get that --

SEN. DOMENICI: I don't want -- I don't have a question of Mr. Greenspan. I just want to state for the record that, frankly, I believe the actions you took over the last three or four years have a great deal to do with the status of the American economy. I frankly believe you were subject to some undue criticism, but if we have a solid recovery, I think it's very significantly related to the conduct of the Federal Reserve over the last 3-1/2, four years.

Maybe President Bush would have liked it differently, maybe Dick Darman would have, maybe it all could have happened earlier, but nonetheless, I think you're somewhat responsible, so I trust you at least on what you're doing now.

SEN. RIEGLE: That reminds me a little bit of watching some of that Olympic skating competition last night when they throw the bouquets out on the ice. You just threw a nice one to the chairman.

Senator Kerry?

SEN. : You were critical of him. You wanted to loosen up even more.

SEN. RIEGLE: Well, the other day I think my comments were comments that reflected some understanding as to what the chairman's trying to do, and I think he's put additional light on that today. I don't think this chairman wants to strangle the economy. I'm speaking of Chairman Greenspan, and, you know, sometimes you can do that and not intend to. But I think he's trying to be as prudent as he can be.

Senator Kerry?

MR. GREENSPAN: Excuse me. Mr. Chairman, is that -- (inaudible)?

SEN. RIEGLE: Are you excused? Can you take your bouquet and go? (Laughter.) Yes, you can.

Senator Kerry?

SEN. BOXER: You get a 5.9 from me.

SEN. RIEGLE: Senator Boxer gave you a 5.9. (Laughter.)

SEN. BOXER: You skate so well (on the ice ?).

SEN. RIEGLE: Especially on the technical portion of the -- (laughter) -- of the program.

END EXCERPT

RESUMPTION OF COVERAGE

SEN. : (Off mike.)

SEN. RIEGLE: Senator Kerry?

SEN. JOHN KERRY (D-MA): Mr. Chairman, I'm not sure I have time to stay through the whole process here, so I may review the bidding here a little bit.

But just speaking as a former prosecutor, one of my colleagues over here was sort of questioning the duality. I can tell you, as a person who has presented evidence to grand juries and who has spent some time putting cases together, that there is nothing worse than having dual tracks, witness confusion, various statements appearing in public, multiple copies of documents moving around. I would be very surprised if Special Prosecutor Fiske decided to do it. It certainly wouldn't be a judgment that I made to make things public in the middle of an investigation because it inevitably taints somebody's something and it creates a very hard process for pursuing a track.

What astonishes me here a little bit -- and I want to reiterate it -- I mean, we've got $150 billion problem here which taxpayers are paying for. They're already angry enough about us wasting their time and duplicitous process. And here we are, frankly, with very important people in front of us having spent a morning not really examining where that $150 billion went, not talking about it, but dealing instead with politics. And that's what this really comes down to, it's politics. It's totally unnecessary. In the context of the gentlemen who has been made a special prosecutor, a Republican appointed by a Democrat -- and let me just share with colleagues again quickly something about Mr. Fiske. This is an article from the New

York Times right after he was appointed:

"Robert Fiske's reputation for integrity and thoroughness is so entrenched that if he finds no wrongdoing during his investigation of the Whitewater affair, his findings could put rumors about Bill and Hillary Clinton's business dealings to rest. 'The choice is one that you simply can't argue with,' said former Treasury Secretary Nicholas Brady, a close friend of former President George Bush and a college classmate of Mr. Fiske's more than 40 years ago. 'He's one of those guys who has always conducted himself with integrity.'"

The article goes on to say that: "Mr. Fiske, a 63-year-old Wall Street lawyer, earned his reputation by being an aggressive prosecutor. If the Clintons have something to hide, he could pose a formidable problem. If he lives up to his billing, at the very least his investigation will disrupt the lives of the first family."

Now, if that's not enough, if we don't have the patience to allow him to do his job and sit here and ask relevant questions about $150 billion, we ought to ask what we're doing. I mean, this is why the taxpayers get so fed up because all we do is dig into politics. And there's a huge distinction between this case and prior cases because we are not looking at a current situation where the president is currently making decisions about current money being spent or current policy. This is something that happened when he was governor -- if whatever happened happened -- and I suggest that this prosecutor has the ability to get at it. If he doesn't, I'll join with Senator D'Amato, I'll be one of the first people -- I think I have a good reputation here on the basis of BCCI and Noriega and other investigative efforts in pursuing things. But I think back to the time that I was trying to do that. I didn't have any help from the other side of the aisle. We did not get subpoena power. We did not have the ability to have a full-fledged investigation in this committee on that. And I sat here with Tim Wirth and we tried again and again to get an extension of the liability. We also tried to get a special prosecutor. Most of my colleagues making a lot of noise about this now opposed having a special prosecutor.

So I just think fair is fair at some point in this business. We all understand the game and we all understand what happens. But it seems to me that to take a 150 billion dollar fiasco and relegate it to a second tier for this 194 state-run -- who was the primary regulator of this institution originally?

MR. : The -- originally it was the Federal Savings and Loan Insurance Corporation, and then later OTS.

SEN. KERRY: So it came to the federal government secondarily.

And, I might add, for two years this case was closed. It wasn't until six weeks before the election -- and we ought to ask some questions about this -- that suddenly, when Bill Clinton was the nominee for president of the United States, that there was a criminal referral to the RTC, not until six weeks before the election.

For two years while my friends controlled the elements of regulation, nobody was asking the questions that are being asked here today.

So I'm not saying questions shouldn't be asked. I am saying we absolutely ought to get to the bottom of whatever took place. We ought to understand all these institutions because it's a sorry chapter in American politics. But that's going to happen, the 25 FBI agents and depositions and documents being made available, and the taxpayers of this country do not need us jumping all over each other for political purposes, avoiding the real issues that they would like us to dig into. And I don't think much more needs to be said beyond that.

SEN. RIEGLE: Senator Bond?

MR. : Mr. Chairman, may I make a correction?

SEN. RIEGLE: Yes.

SEN. KERRY: I think Senator Kerry asked who was the primary regulator. The primary regulator was the state of Arkansas.

SEN. KERRY: Well, that was what I was getting at. The primary regulator was the state.

MR. : Exactly. And the primary federal regulator was FSLC and OTS.

SEN. KERRY: Correct. So the issue of federal nexus here in terms of decisionmaking is only by transfer, not by original jurisdiction. So what we're doing is secondary to the third tier.

SEN. RIEGLE: Senator Bond?

SEN. BOND: Mr. Chairman, for the benefit of my friend from Massachusetts, I am going to submit a chronology and some questions for the record to the RTC to answer. I recall it was Jerry Brown of California who first raised the question during the 1992 campaign, but we all will be able to benefit from these questions, which are along the lines that Senator Kerry raised. I also have a series of questions for the FDIC and for the RTC which follow up on these other questions, but in the time remaining I do want to pursue a couple of items.

When we last talked, Mr. Altman, you said that normal procedure would be for the RTC to seek out and acquire records wherever they were. Now, if the RTC under your direction were requesting records from the first lady at the White House, a rather high-profile event, would it not be customary for them to advise you that they were requesting records in the possession of the first lady?

MR. ALTMAN: Senator, I don't get involved in any substantive aspects of any PLS case, particularly -- or including documents that they may seek. So they've never brought that to my attention since I've been in this job, and that goes right through today.

SEN. BOND: So you wouldn't expect them to tell you.

MR. ALTMAN: No, I wouldn't.

SEN. BOND: I find that remarkable. In a normal criminal referral case, the RTC creates and retains an inventory of pertinent documents used to make the case. As I understand it, at least one version of the inventory has been provided to some members of Congress. Could you furnish to this committee the latest, most up-to-date inventory and provide the hearing -- for the hearing record along with the previous versions? Would you make that available?

MR. ALTMAN: Last evening we supplied the -- 6,500 pages of information to Senator D'Amato's office, as we had some time earlier to Congressman Leach.

SEN. BOND: And is that the entire inventory? Are those all the documents? You give new challenge to Federal Express and Overnight Postal Service to get the delivery of such a substantial stack of documents at the particular time, a new standard for delivery in package express.

MR. ALTMAN: Well, I have here a list of the documents.

SEN. BOND: Is that the latest version?

MR. ALTMAN: This is just a list of what the documents are. There's 6,500 in total pages. This is a list of the documents we provided.

SEN. BOND: If you could make one available for the record, we would like to have that. I'd appreciate it.

MR. ALTMAN: Be delighted.

SEN. BOND: Next, when did you become aware of the RTC recommendations that further criminal prosecution be taken against Madison?

MR. ALTMAN: Last fall I was advised that the question of a referral to the Justice Department was under consideration at the RTC, and as other members of the RTC staff will attest, I said that normal procedures, with no deviation whatsoever, should be pursued, including chain of command procedures, in terms of reaching that conclusion.

I might tell you that typically decisions like that are made at the regional office level, and that it was in this case.

SEN. BOND: Were you aware that the regional office had asked the national office to make a determination as to whether the Clintons' name should be in the new expanded referral?

MR. ALTMAN: No.

SEN. BOND: You did not know they were asking for the national office to make a determination on that?

MR. ALTMAN: No. I was simply informed that this issue was on the table, and my reaction was -- I had only one conversation about it -- that normal procedure should be followed. That's the way we're going to handle this thing from beginning to end.

SEN. BOND: How was the White House notified of the referral? Was it from your agency?

MR. ALTMAN: They were not notified by the RTC, to the best of my knowledge.

SEN. BOND: Nobody in your agency, to your knowledge, advised the White House staff that this was going to be a major -- this could be a major source of concern?

MR. ALTMAN: Not to my knowledge.

(Confers off mike.)

Ms. Ford, do you know if the White House was notified by the RTC?

MS. FORD: No, we have had no involvement at the Oversight Board whatsoever.

SEN. BOND: When was the firm of Madison & Pillsbury put on retainer by the RTC, do you know? And for how long and what cost?

MR. ALTMAN: I don't know that. I'm aware that that firm has been retained as outside counsel on this matter, but I'm not aware of the date on which it was retained nor the retainer arrangements.

SEN. BOND: Will they review the potential of suing the various law firms who represented Madison or the board of directors?

MR. ALTMAN: I don't know the answer to that question.

SEN. BOND: We'd appreciate knowing that, if you could, later. And if there are other outside counsel or consultants hired in conjunction with the case, we would like to know that.

And finally, I'm advised that the list you have there is just an inventory of the documents provided to Senator D'Amato; it is not the complete inventory of the documents pertaining to Madison. And if I'm mistaken, in either event, we would appreciate receiving a copy of the inventory of the entire documents.

MR. ALTMAN: Well, Senator, I'm not sure I fully understand your question. But what we have released amounts to what we've been asked for, less any documents that, in our judgment, could prejudice the investigation. I told you earlier that we'd had a couple of conversations -- I haven't had them; I'm advised there were a couple of conversations with Mr. Fiske, with each side asking the other not to release information or take any other steps which would prejudice either side's investigation, and we're trying to adhere to that.

SEN. BOND: As I understand it, that you have prepared an inventory. I'm not asking for the documents themselves, but I understand that you had prepared an inventory and had furnished perhaps members of the House side, or others, with the inventory, not the contents of the documents.

MR. ALTMAN: Any information, I assure you, that we have supplied to Congressman Leach or anyone else -- elsewhere in the Congress, we're delighted to supply to you or anyone else here that would like them.

SEN. BOND: Would that include an inventory, a cataloging, not the contents but a cataloging of the documents in the Madison case?

MR. ALTMAN: We will supply you with any information to that extent that we can which does not get into areas that we think would prejudice the investigation.

SEN. BOND: Thank you, Mr. Chairman.

SEN. RIEGLE: Senator Boxer?

SEN. BOXER: Mr. Chairman, I'd like to -- I'm still working.

SEN. RIEGLE: All right. Senator Domenici, you're next in the order.

SEN. DOMENICI: Mr. Altman, you spoke a while ago of your one contact with the White House regarding this, and you and your counsel went up to talk to the White House counsel.

MR. ALTMAN: Yeah, one substantive contact.

SEN. DOMENICI: Please?

MR. ALTMAN: One substantive or meaningful contact.

SEN. DOMENICI: Yeah. Well, I assume -- we're not arguing there that you had -- you're not suggesting you had more than one, are you?

MR. ALTMAN: No. I'm just saying that if you -- you know, you run into someone in the hall -- did you see that thing in the paper this morning? -- I'm not including that.

SEN. DOMENICI: All right. You said you were there to give a heads-up. What I understand the situation to be on average folks, a couple of them in my state that were bordering up alongside of a statute of limitations becoming a defense, they were presented with a tolling agreement, and if they didn't sign it, suit was filed so as to toll the statute. Is that a rather fair assessment of the way business is done?

MR. ALTMAN: I think I'd have to know the details of the matter, Senator.

SEN. DOMENICI: Well, I guess what I'm wondering, are we getting the right perspective of why you did this? Did you go there because you wanted them to know that clearly they might be asked to sign a tolling agreement, or to know that the normal process was that the toll -- the statute's going to toll, and there's reasonable grounds to suspect something, they might expect a lawsuit? Or why else would you give them heads-up?

MR. ALTMAN: The difference between this and a matter like the one you referred to is that I had been receiving -- had begun to receive a lot of inquiries, including in writing from Congress, as to what procedures the RTC was going to follow, and I wanted to give them the same sense of those procedures that I was giving members of Congress. And I said to them nothing different than I've said to members of Congress.

SEN. DOMENICI: Well, I understand that, but I guess what I'm getting at is there must have been a reason for telling them that. Congress was just saying the statute's going to run, what are you going to do, so you went over there to tell them that we're going to apply the same thing we do in any other case? And that's the heads-up that you were giving them?

MR. ALTMAN: That's right.

SEN. DOMENICI: Was it serious enough that you wanted them to know because there might be something that they would be confronted with that was untoward as you applied your rules, like asking for a tolling agreement or filing a lawsuit?

MR. ALTMAN: Again, the essence of what we said was that the statute of limitations which then applied was scheduled to expire on February 28, 1994; that the RTC was going to make every effort to make a decision by that date.

It could fundamentally reach only one of two decisions, that there was a basis for a claim or that there wasn't. If there was a basis for a claim then we would either seek a tolling agreement to permit more discovery and more preparation or we would file that claim in court.

SEN. DOMENICI: Well the passage of the statute of limitations extension eliminates that problem as you have already indicated.

I guess, Mr. Chairman, I'm having a little difficulty with explanation because one way of looking at it was that it was not a very meaningful or important meeting -- that he was just doing this so that he would be able to tell Congress he had told them he's going to treat them the same way as others. I don't think a man -- you know, I know you fairly well -- I don't think you would be going over there to just be able to send this letter to Senator D'Amato that says I have told the White House that they're going to be treated the same way as other people --

MR. ALTMAN: Senator, I did not know whether they knew of such procedures which as I say I was then communicating to members of Congress and it just seemed to me a little odd to explain to a member of Congress that we're going to follow "XYZ" procedures and not have them ever be made aware of what those were.

SEN. DOMENICI: Well, I want to close on this remarks by thanking you, Mr. Chairman, for holding these hearings. I hope the public understands the Republican response to Senator Kerry, you know, it's almost an insult to accuse us of not being concerned about oversight and that some how or another the other side is more interested in how the RTC turned out. Frankly, that's just borders on being a joke. This hearing, we have all your statements, we're going to read them. So we're going to know what you were going to say. If you sent it to us yesterday, our staff has probably read it already and they'll brief us so we're going to know.

My last observation would be that it's inconceivable to me Mr. Altman that you would really be concerned that the people involved in the investigation, whomever they are, whether it be the people in Arkansas, whether it be confidants of the President, whomever, that they would not know that the statute of limitations was going to toll and that that presented a situation that you had to advise somebody on.

I just don't think anybody involved in this would not know that.

MR. ALTMAN: Senator, I also -- I would agree with you. I can't say for sure. I don't know what was in their minds. I doubt very much that they did not know about the statute of limitations.

SEN. DOMENICI: Right.

MR. ALTMAN: What I was saying was not that. What I was saying was I did not know if they knew and, frankly, my impression is, as a result of that meeting, they hadn't previously known what procedures the RTC would be following. By that I mean that you have to choose between -- you have to reach a conclusion as to whether there's a claim or there isn't, and then what you have to do if you reach the conclusion that there is.

SEN. DOMENICI: All right. Thank you very much.

SEN. RIEGLE: Thank you.

Senator Faircloth?

SEN. FAIRCLOTH: Thank you, Mr. Chairman. And I will echo Senator Domenici. You have done a superb job of conducting. And I'll be very brief.

My questions are to Mr. Hove.

Mr. Hove, we keep coming back -- you said the FSLIC issued this report, who has long been out of business, and did the investigation on Mrs. Clinton and her relationship.

MR. HOVE: No, sir, I didn't say FSLIC. I said that the agency that handled the closing of First American was FSLIC, and that occurred before FDIC had any involvement in that.

SEN. FAIRCLOTH: All right. But who did the investigation -- I assume there was one done -- to determine that Mrs. Clinton had no involvement whatsoever that was worthy of looking at?

MR. HOVE: We did not do an investigation, we did not do a review because we don't have all the records. The records are the old FSLIC records that are not in one central repository. All we did was review the records that we had available at the FDIC, and the records that we had at the FDIC only indicated that Mrs. Clinton's involvement, from the records that we could review, was the two hours that she spent filing the amended complaint for her partner, Vince Foster.

SEN. FAIRCLOTH: So, what you're saying really is that you did a very incomplete and surface investigation.

MR. HOVE: We did not -- we simply looked at the records that we had, and we did not make an investigation any further than the records that we had available to us at the FDIC.

SEN. FAIRCLOTH: Well, I would say that Mr. Whitney (sp) issuing such a clearance for Mrs. Clinton in the name of the FDIC doesn't lend a lot of credibility to an FDIC investigation when he makes his statements and when you didn't really have the records to make an investigation, from what you're telling me.

MR. HOVE: What we were doing was correcting the information that was erroneous in the Chicago Tribune report because the Chicago Tribune said that it was an FDIC case, we said it was not an FDIC case. And we also said that from our records, this was the only involvement that we could have.

SEN. FAIRCLOTH: Well, don't you think it would be a good idea to hunt up the old FSLIC records and see what they might lead you farther? But I have a question, and then I'm going to -- (inaudible word).

The original suit was $3.3 million. They settled it for 6 cents on the dollar, or $200,000. What I want to know is how much was Mrs. Clinton paid, or the Rose law firm.

MR. HOVE: I can't tell you. I don't know that.

SEN. FAIRCLOTH: Can you find out?

MR. HOVE: We can try.

SEN. FAIRCLOTH: Well, I would like for you to let me know as quickly as possible how much the Rose law firm was paid, and also their work records to indicate who did the work to earn the money, because -- you say she worked two hours.

MR. HOVE: I didn't say that. I said the only thing that we can ascertain from the records we have was that she worked two hours. And let me remind you, Senator, that these records are disbursed from wherever FSLIC had the records, and we did not take possession of those records when FSLIC was closed down.

SEN. FAIRCLOTH: Are those records still available?

MR. HOVE: I don't know.

SEN. FAIRCLOTH: If she settled the lawsuit, the amount of hours she worked -- it is just impossible for me to believe she settled this lawsuit against Lassiter (sp), she signed the amended return, which was the settlement, the amended complaint, which was the settlement against Lassister, at a very favorable rate, then we turn around and find that Lassiter's -- the person with his power of attorney is back in the White House working.

MR. HOVE: Senator, the amended complaint reduced the complaint from 3.3 million to 1.3 million. The suit -- the settlement was some six months later. I don't know whether Mrs. Clinton had any involvement after that period of time in which she amended the complaint from 3.3 [million] down to 1.3 [million].

SEN. FAIRCLOTH: So we have no idea whether Mrs. Clinton made the final settlement totally.

MR. HOVE: I have no idea from our records and what we've seen --

SEN. FAIRCLOTH: And this two-hour thing -- she could have worked 200 hours.

MR. HOVE: What I have told you is what we have available at the FDIC.

SEN. FAIRCLOTH: But she could have worked 200 hours on it.

MR. HOVE: And all I'm telling you is that the records that we have indicate she worked two hours.

(Confers off microphone.)

Okay, the only records we have was that she billed FSLIC for only those two hours.

SEN. FAIRCLOTH: Billed who?

MR. HOVE: FSLIC. (Pronounces each letter.)

SEN. FAIRCLOTH: How about getting the total records from FSLIC and finding out how much the total bill was and whose time was billed? I'd like to see it. Thank you.

SEN. RIEGLE: Senator D'Amato?

SEN. D'AMATO: You know, Mr. Hove, I have difficulty if you really have trouble figuring out when a claim is initially lodged for $3 million and then it is reduced and you say, well, you know, the law firm or this partner -- in this case, Mrs. Clinton -- only billed for two hours. But the nature of the work was such as to reduce that lawsuit and the potential liability to Mr. Lassiter (sp), who has a definite relationship with the Clintons. I mean, are we really to believe you don't understand that? Now, don't give me this two-hour stuff. I mean, the fact is that that claim was reduced -- the potential of the claim -- from 3 million down to a 1 million some odd, and therefore, a settlement of $200,000 is much more reasonable in appearance when the initial -- when the suit is only asking for a 1.3 million as opposed to 3 million. Now, doesn't that make some -- I mean, do you see why a senator or anyone else would make an inquiry and say, "Look" -- I mean, what's the situation here? Are you telling us there was no conflict there.

MR. HOVE: But, Senator, you're asking FDIC, and FDIC did not have any involvement in that suit at that time.

SEN. D'AMATO: I'm not suggesting that. What I'm suggesting to you is that a period of time it came under you for review.

And if you look at this -- don't keep telling us that FDIC didn't have anything at that time. We're not suggesting that you did anything wrong. We're suggesting you take a look at the facts, take a look at the record, and you can be a school boy, you can't come to an inescapable conclusion that someone was retained to bring the lawsuit that had a relationship with the person that they brought a suit to. And as a matter of fact, whether it was two hours or one hour, the determination was made to reduce the claim that might bring the potential liability from $3 million down to $1 million and eventually settle for $200,000. Now, we don't know who was responsible for the settlement. But the fact of the matter is that the partner who reduced and amended that complaint was Mrs. Clinton. Now that's obvious.

I'm not going to spend my time going back and forth with you. I'm going to tell you something else, though. When we talked about the potential for conflict before, as it related to the Madison Guaranty and Mr. Hubbell, I want to refer you to a letter of June 8th, 1989.

Now, Mr. Hove, you stated that since the Rose law firm -- when I first brought this up to you -- was suing Frost, it wasn't relevant that Web Hubbell's brother-in-law and father-in-law were suing Madison. Now, if you take a look at that letter -- and I'm going to suggest to you that you're wrong, and that's why you'd better have the IG look at this. June 8th, 1989, and it is written to April Breslaw (sp), Attorney, Federal Deposit Insurance Corporation. I'm reading part of it:

"Mr. Hubbell is the son-in-law of Seth Ward, a Madison insider who was able to obtain a judgment against Madison of approximately $447,000."

Now, I'm going to skip the next sentence, go down to --

"Since the conservatorship, the case has been removed and later remanded back to the State Court of Appeals. After appeal, a new trial will be sought, whether in state or federal court. At a minimum" -- it goes on to say -- "the state judgment will be attacked under various special FDIC defenses on its general inappropriateness. Miss Styrahorn (ph) has informed me that the informal -- the information contained in the audit files could be damaging to our case, especially if a new trial is granted."

It goes on and it concludes: "I offer this information because there appears to be a conflict in representation and a question of loyalties. Mr. Hubbell may or may not be able to compromise our interest in the Seth Ward matter."

Now, look, I'm not suggesting that at that time that you know of it. Here it is. And that's why, if you don't refer something to the IG to clarify whether or not there was a conflict, you can't be doing the right thing. And for you to maintain, "Well, we weren't there at the time; it was at FSLIC" or "Maybe the rules were a little vague." I mean, for god sakes, you had lowly auditors saying, "Wake up, fellas." You had an auditor in another letter saying it's impossible to think that he's not going to tell his in-laws what's going on. So that's the kind of thing that brings about maybe the stamping that one of my colleagues alluded to.

Mr. Chairman, notwithstanding first of all I'm going to ask that we be permitted to submit some documents for the record that have been returned to --

SEN. RIEGLE: Without objection, so ordered.

SEN. D'AMATO: -- so we can keep an orderly proceeding.

Secondly, I want to say before I conclude that you could not have been fairer in making available this opportunity and according the members the opportunity to make their presentations and to ask their questions under very difficult circumstances. So I want you to know that. And I think that I speak for all the Republicans on the committee in relationship to the manner in which you have conducted this proceeding. And it's not easy for you, and I just want to commend you for your impartiality.

And let me conclude again. I think what we're interested in, in this, is seeing -- and Senator Domenici said -- that the process moves forward without there being interference, without there being a question as to what documents have been made available to the appropriate people, what has been taken. Some of these things have no -- I see Mr. Altman. He's placed in a very, very difficult position. I've said that publicly as well. It is a very, very difficult situation. And it certainly -- it leads to us raising the kinds of questions that we have. But I tell you this senator wants to see that what was supposed to be done was done, that what should be done at the present level is carried out in a manner in which everyone can say that the right thing was done. And then let the chips fall where they may.

So, Mr. Chairman, again, thank you for providing us an opportunity to put forth our concerns, and hopefully, this will move us a step closer to resolving this matter. Thank you.

SEN. RIEGLE: Thank you very much. We'll give you some questions for the record, and we'd ask you to respond to them. The committee stands in recess.

END

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Wilma H. Lekan@Legal-sc@RTCDC
Cc: William C. Collishaw@Legal-ra@RTCDC
Bcc:
From: John C. Binkley@Legal-ra@RTCDC
Subject: Q&A
Date: Friday, March 18, 1994 11:06:43 EST
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I have added two answers to the last Qestion. I think that addresses what you discussed with Bill.

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Question:

Mr. Altman/Ryan, please describe to the Committee what if any legal advice you have received either from the RTC's General Counsel or other attorneys within the RTC on _____________.

Answer:

- [**Ryan**] The information that you have requested consists of confidential legal advice that I have received from attorneys in my capacity as Deputy CEO and consequently is privileged under the attorney-client privilege. Therefore, I respectfully decline to discuss such matters.

- [**Ryan-Alternative**] Because the information is privileged under the attorney-client privilege and I have not had the opportunity to discuss the question of waiving the privilege with my General Counsel, I would respectfully request the Committee allow me the opportunity to respond after we have reviewed this matter.

- [**Altman**] As you know I have recused myself from all matters related to Madison Guaranty. The issue you raise deals with advice pertaining to Madison prior my recusal and is protected by the attorney-client privilege. I have been advised that because of my recusal I am not the appropriate person to make a determination on behalf of the RTC as to whether the agency should waive its privileges associated with this issue. Instead, I have been informed that John Ryan, the Deputy Chief Executive Officer, is the appropriate party to make that determination.

Question to Ms. Kulka:

Ms. Kulka have you given legal advice either to Mr. Altman or Mr. Ryan on [description of the issue] and if so please tell the Committee the nature of that advice.

Answer:

- Any legal advice I may have given the RTC Chief Executive Officer/ Deputy Chief Executive Officer on that issue was provided to them in confidence and is protected under the attorney-client privilege.
- The information that you requested is privileged under the attorney-client privilege. This is not my privilege to waive, inasmuch as I am only the attorney for the RTC. It belongs to the agency, and the RTC alone can waive it.

Question to Ms. Kulka:

I understand that you are asserting the attorney-client privilege but that privilege is not yours, but that of your client. If Mr. Altman or Mr.Ryan waives that privilege on behalf of your client, would you answer my question?

Answer:

- As you know Mr. Altman has recused himself from all matters that relate to Madison Guaranty. Because of this recusal I do not believe that he is the appropriate official to make the determination as to whether the agency wants to waive its privileges in this matter. Instead John Ryan, as Deputy Chief Executive Officer would be the appropriate official.

- If John Ryan, as Deputy Chief Executive Officer makes a determination that it is in the RTC's interest to waive the privilege in this instance then I would be able to respond to your question.

Question to Mr. Ryan:

As Deputy Chief Executive Officer you are the client for the purposes of the attorney-client privilege and it is your privilege to waive. Will you waive that privilege and direct your General Counsel to answer the question and describe the advice that she gave?

Answer:

- I have not had the opportunity to evaluate what impact the waiver of the privilege would have on the RTC. Consequently, I will need to discuss this matter with my General Counsel and after we have reviewed the issue, I will be able to respond to you.

- I view it as very important that the advice I receive from my General Counsel and the other attorneys who work for the RTC remain confidential. To disclose that information would have a profoundly chilling effect upon those individuals and could detrimentally effect the quality of their advice in the future. It is only human nature that individuals will be less candid if they believe the substance of their advice will end up on the front page of the Washington Post or the New York Times.

- It is very important that the RTC careful evaluate the waiver of any privilege, whether it is the attorney-client privilege, deliberative process privilege or other privilege. Depending on the substance of the information at issue, it could disclose positions the RTC anticipates to take in future litigation with the devastating results on the RTC's mission.

Testimony
For
Madison
Guaranty
Savings & Loan
Hearings

RTC
Resolution Trust Corporation
Office of Corporate Communications
801 17th St., N.W.
Washington, DC 20434
(202) 416-7557

News Release

FOR IMMEDIATE RELEASE PR-603-90 (11-30-90)

MADISON GUARANTY SAVINGS AND LOAN ASSOCIATION, MCCRORY, ARKANSAS, ACQUIRED BY TWO FINANCIAL INSTITUTIONS

The Board of Directors of the Resolution Trust Corporation (RTC) has approved the sale of Madison Guaranty Savings and Loan Association (Madison Guaranty), McCrory, Arkansas, to two financial institutions.

Services to Madison Guaranty's former customers will continue without interruption. The former institution's three banking offices will reopen on Monday, December 3, 1990, and will operate according to Madison Guaranty's normal schedule. As part of this transaction, the [redacted] will assume all deposits totaling approximately $1[illegible].7 million. Deposits will be insured by the Federal Deposit Insurance Corporation (FDIC) Savings Association Insurance Fund (SAIF).

[redacted] initially purchase $23.2 million of the failed [redacted] assets with liberal put back options, and will have the option to purchase most of the remaining assets of Madison Guaranty.

Madison Guaranty had total assets of $93.8 million, and total liabilities of $125 million, including $108.7 million in approximately 3,900 deposit accounts, and $15.4 million in secured

-more-liabilities. Secured liabilities will not pass to the acquirers in this transaction. Madison Guaranty's core, or local retail, deposit base is estimated to be $42.2 million. The RTC was paid a combined premium of $192,111 by the acquirers, which represents 0.5 percent of the failed institution's core deposits.

The RTC will advance an estimated $85.3 million to the acquirers and will retain approximately $70.6 million of the closed institution's assets. The RTC will recover a portion of its advance through the sale of assets to be held in the receivership. The ultimate cost to the RTC of this transaction is estimated at $47.7 million.

The RTC invited 586 potential purchasers to bid on the institution. The acquirers' combined bids were determined by the RTC to be the least costly of the seven proposals submitted to the agency.

Madison Guaranty's offices and their acquirers are:

- The main office located in Little Rock and the McCrory branch, with deposits of approximately $101.7 million, were acquired by First American Bank of Little Rock, Little Rock, Arkansas. First American, a newly chartered state bank, is a subsidiary of P&W Bancshares, Inc., Little Rock, Arkansas. The RTC was paid a combined premium of $140,555 for these two offices.
- The [illegible] branch, with deposits of approximately $6.7 million, was acquired by Citizens State Bank, Bald Knob, Arkansas. The RTC was paid a premium of $51,556.

-more-

The RTC is a federally chartered corporation established on August 9, 1989, by the Financial Institutions Reform, Recovery, and Enforcement Act. Its sole purpose is to contain, manage, and resolve failed savings associations, and recover funds through the management and ultimate sale of the institutions' assets.

###

U. S. Department of Justice

Washington, D.C. 20530

17 DEC 1993

John C. Binkley, Counsel
Department of Corporate Resolution
Resolution Trust Corporation

Philip J. Lindenmuth
Chief, FOIA/PA Branch
Resolution Trust Corporation

This letter responds to recent telephone conversations with both of you in which we discussed the handling of a number of Freedom of Information Act (FOIA) requests to the Resolution Trust Corporation (RTC) for records related to criminal referrals to the Department of Justice concerning the Madison Guaranty Savings and Loan Association. We request only that the RTC consult with this Unit before releasing any criminal referrals previously made to the Department or any memoranda or notes which reflect the Department's requests to your agency for specific information.

For purposes of its investigation, the Criminal Division requests that the RTC make every effort to maintain the integrity of the RTC files to the maximum possible extent.

Thank you for your advice and assistance on this matter.

Sincerely,

Marshall R. Williams

Marshall R. Williams, Chief
FOI/PA Unit
Office of Enforcement Operations
Criminal Division

By Fax

T-13005
: Mr. Ryan
Standard Distribution
Mr. Adair
Ms. Kulka
Ms. Hinton
OGR Reps & Staff
Ms. Kauper

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

March 21, 1994

Honorable Jim Leach
Ranking Minority Member
Committee on Banking, Finance
and Urban Affairs
House of Representatives
Washington, D.C. 20515

Dear Mr. Leach:

This is in response to your letter of March 11 requesting information about which Democrat and Republican Members of the ~~House and~~ [redacted] ~~received~~ "the same briefings that RTC and Tr[redacted] House on criminal referrals and [redacted]

The enc[redacted] requested on m[redacted] or staff. I have no knowledge of meetings with Congressional offices provided by government officials other than RTC officials. I have no direct knowledge of the nature or extent of any White House briefings referenced in your letter, so I cannot compare congressional briefings with those that occurred with White House staff.

We hope this information is of assistance to you. If you have any questions, please let me know.

Sincerely,

John E. Ryan
Deputy CEO

Enclosure

801 17th Street, N.W. Washington, D.C. 20434

RTC Congressional Briefings Relating to Madison Guaranty

Date	Congressional Staff	RTC Officials	Contents of Briefing
12/23/93	Anthony Cole Joseph Seidel John Scharfenberg Margo Tank (Rep. Leach)	Peter Knight Bill Collishaw Casey Carter	Discussion of RTC approach in responding to Rep. Leach's investigation and establishing operating parameters
12/27/93	Joe Seidel (Rep. Leach)	Peter Knight Casey Carter	Review of various documents.
12/30/93	Mike McGarry (Rep. Leach)	Bowen Hinton	Review of various documents in Kansas City office and visit to Iron Mountain Storage facility.
1/5/94	Joseph Seidel John Scharfenberg Mike McGarry Margo Tank (Rep. Leach)	Peter Knight Carl Gamble Jack Binkley Phil Lindenmuth Steve Primrose Bill Collishaw	Discussion of RTC position on Rep. Leach's standing as Ranking Minority Member, concerns about Privacy Act, Trade Secrets Act, and related matters.
1/24/94	Howard Menell Raymond Natter Doug Nappi (Sen. D'Amato)	Jack Ryan Peter Knight	Discussion of RTC approach in responding to Sen. D'Amato's investigation and establishing operating parameters Discussion included the RTC's position on the Senator as Ranking Minority Member RTC concerns about document production relating to civil and criminal investigations; a general discussion of tolling agreements; and a discussion of whether the statute of limitations expired on August 9, 1994. This last point was discussed further in a telephone conference call later that week between Raymond Natter of Senator D'Amato's staff and Peter Knight and Mark Gabrellian of the RTC
1/31/94	Doug Nappi (Sen. D'Amato)	Peter Knight Jack Binkley Casey Carter Steve Primrose	Discussion of RTC document inventory. RTC concerns about Privacy Act, etc., and related issues.
2/28/94	Joseph Seidel Mike McGarry John Scharfenberg Gary Parker (Rep. Leach)	Peter Knight Tom Hindes	Discussion of Rep. Leach's request for general PLS information pursuant to Chairman Gonzalez's May 12, 1993 letter

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

December 22, 1993

The Honorable James A. Leach
Ranking Minority Member
Committee on Banking, Finance & Urban Affairs
U. S. House of Representatives
Washington DC 20515

Dear Jim:

I am writing in response to your letter dated December 9, 1993, requesting that the Resolution Trust Corporation provide certain documents and records for the House Banking Committee Minority investigation of the failure of Madison Guaranty Savings and Loan Association located in M^{c}Crory, Arkansas. Madison Guaranty is an institution in receivership with the RTC.

Let me reassure you that the RTC will thoroughly cooperate in this investigation. Indeed, it was the RTC which originally referred this matter to the Justice Department. RTC staff has been instructed to assemble the relevant documents, which are voluminous, as quickly as possible.

Ideally we would forward all of these materials to you today, and I expect to supply most of them in short order. I am advised by the RTC General Counsel, however, that there may be limits on our ability to provide certain of them. These limits involve the Privacy Act and legal privilege or other restrictions on the ability of the RTC to release them. This will have to be coordinated with the Justice Department. I have instructed the RTC staff to work with your staff on appropriate procedures for handling these issues.

Sincerely,

Roger C. Altman
Interim CEO

801 17th Street, NW Washington, DC 20434

12095.1
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RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

November 9, 1993

Honorable Dale Bumpers
Chairman
Committee on Small Business
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

I am writing as a follow-up to Interim CEO Altman's letter to you of August 20 in order to furnish you with the background regarding Ward v. Resolution Trust Corporation as receiver for Madison Guaranty Savings & Loan Association (Madison Guaranty) and Madison Financial Corporation, Little Rock, Arkansas, and one of its subsidiaries, Madison Financial Corporation (MFC). Mr. Seth Ward's letter makes a number of factual and legal assertions regarding that litigation which are erroneous. We appreciate the opportunity to set the record straight.

The evidence produced in the case demonstrated that Mr. Ward was not merely an innocent party caught up in the savings and loan crisis; rather, the evidence showed that he participated in a series of transactions involving Madison Guaranty and MFC which enabled those entities to circumvent federal laws and regulations. These transactions involving Mr. Ward, among others, led to the insolvency and failure of Madison Guaranty in 1989.

In connection with these transactions, Mr. Ward's letter states that he had a "fully-executed written contract" with Madison Guaranty and MFC regarding real estate commissions. The evidence showed that the contract was an unrecorded side agreement arising from a transaction designed to evade applicable law. The contract was based on secret agreements neither contemporaneously recorded in the thrift's records nor ever considered or approved by the board of directors of the thrift. As such, pursuant to the well-developed federal common law under D'Oench, Duhme & Co. v. FDIC, 315 U.S. 447 (1942), and relevant federal statutes, including 12 U.S.C. § 1823(e), the contract was unenforceable against the RTC. Accordingly, although Mr. Ward had obtained a state trial court judgment in his favor based on this agreement--which was on appeal at the time of the failure of Madison Guaranty--the RTC sought to overturn that judgment and recover the funds at issue on behalf of the federal taxpayers.

801 17th Street, N.W. Washington, D.C. 20434

In his letter, Mr. Ward repeatedly refers to his "final, fully satisfied $53,000 state court judgment" and characterizes the litigation as a "collateral attack" on this judgment. These characterizations are inaccurate. The United States Court of Appeals for the Eighth Circuit confirmed in Ward v. RTC, 972 F.2d 196 (8th Cir. 1992), cert. denied, 113 S. Ct. 1412 (1993), that the state appellate court order on which Mr. Ward based his claim that he had a "final judgment" was void as a matter of law. The order of the Arkansas Court of Appeals dismissing the appeal from Mr. Ward's state court judgment was a nullity because it was issued by a court having no jurisdiction. That is, because the RTC had previously removed the case to federal court, the state appellate court was prohibited from taking any further action in the case (see, e.g., 28 U.S.C. § 1446(d)). The Eighth Circuit affirmed that all of the various arguments raised by Mr. Ward in support of this "final judgment" were without merit, and the U.S. Supreme Court later denied Mr. Ward's petition for a writ of certiorari to review that decision.

In addition, Mr. Ward's characterization of the void state court judgment as "fully satisfied" is both inaccurate and anomalous. The funds used to "satisfy" the judgment were improperly withdrawn from an escrow account by Mr. Ward. He was not entitled to these funds unless and until a valid order finally concluding the litigation was issued. Because the state court's order of dismissal was void from its inception, the conditions for release of the funds were never satisfied. The Eighth Circuit's decision in Ward v. RTC, 972 F.2d at 196, concluded that there were no legal grounds for Mr. Ward's removal of the escrow funds in order to "fully satisfy" his judgment, which was still on appeal at the time.

Mr. Ward's complaints regarding the lengthy procedural history of this case are also without merit. Mr. Ward's continued insistence upon enforcement of the void state court order increased the time and expense necessary to conclude this litigation. Furthermore, several of the appellate decisions associated with this case established important legal precedents for the RTC. These decisions include In re RTC, 888 F.2d 57 (8th Cir. 1989), confirming the retroactivity of certain provisions of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, and Ward v. RTC, 972 F.2d 196 (8th Cir. 1992), cert. denied, 113 S. Ct. 1412 (1993), affirming the power of the RTC to raise its special federal law defenses when it becomes a party to a case already on appeal in state court and removes the matter to federal court. These decisions, among others related to this case, affected numerous litigations across the country and have materially assisted the RTC in its continuing efforts to resolve the thrift crisis and recover on assets of insolvent thrifts.

Finally, with regard to the firms representing the RTC in this case, it is important to understand that in 1992 one of the RTC's principal outside counsel moved his practice from Hopkins & Sutter to Nixon, Hargrave, Devans & Doyle, both located in

Washington, D.C. By keeping the case with this counsel, the RTC **saved litigation expenses** by avoiding the necessity of educating new counsel regarding the complex history and facts of this matter. The only other law firm involved in this matter, Friday, Eldredge & Clark, Little Rock, Arkansas, served as local counsel in the Arkansas federal court and provided expertise concerning the factual background and issues arising under Arkansas law, a typical arrangement used in complex litigation. As to the appearance of several federal banking agencies in this litigation, it is important to note that, until 1992, the Federal Deposit Insurance Corporation appeared in all appellate matters involving the RTC because RTC appeals were handled by the FDIC's Appellate Litigation Section. However, the involvement of the FDIC certainly did not represent any duplication of effort in the litigation.

In conclusion, the outcome of this litigation speaks for itself on the validity of Mr. Ward's claims. **Every federal appellate court that considered his claims on the merits ruled in the RTC's favor.** E.g., In re RTC, 888 F.2d 57 (8th Cir. 1989) (vacating the Eighth Circuit's prior adverse decision in re FSLIC, 881 F.2d 564 (8th Cir. 1989)); Ward v. RTC, 901 F.2d 694 (8th Cir. 1990); Ward v. RTC, 972 F.2d 196 (8th Cir. 1992), cert. denied, 113 S. Ct. 1412 (1993). Notwithstanding Mr. Ward's assertion that this litigation could have been settled early in the proceedings, it was not until this spring--after all of Mr. Ward's defenses had been rejected by these appellate courts--that he finally agreed to return substantially all of the funds he removed from the escrow account. **That the RTC ultimately recovered more than $340,000 in cash of Mr. Ward's $353,000 judgment demonstrates** the **merits of the RTC's legal position in this litigation.**

We would be pleased to discuss this case with you in more detail at your convenience. If you have any questions regarding the issues discussed in this letter, please feel free to contact me.

Sincerely,

Peter E. Knight
Acting Director
Office of Governmental Relations
(202) 416-7314

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STEVEN B. HARRIS STAFF DIRECTOR AND CHIEF COUNSEL
HOWARD A. MENELL REPUBLICAN STAFF DIRECTOR

United States Senate
COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS
WASHINGTON, DC 20510-6075

January 11, 1994

Honorable Janet Reno
Attorney General
U.S. Department of Justice
Washington, D.C. 20530

Dear Attorney General Reno:

We regret that you have rejected Congressional requests to appoint a special counsel to examine the allegations of potential misconduct that have recently surfaced concerning Madison Guaranty Savings and Loan ("Madison") and the Whitewater Development Corporation ("Whitewater").

Of course, we express no opinion as to whether any of the allegations are, in fact, true. Nor do we express any view as to who may, or may not, be involved in any misconduct. Nevertheless, we are writing to urge you to act immediately to seek agreements to toll the relevant civil and criminal statutes of limitations, which are now expiring.

While we have our differences with you over whether to appoint a special counsel under your authority, or an independent counsel following reauthorization of the Independent Counsel Act, we trust that we are pursuing a common objective: a fair investigation conducted in an objective, impartial and independent fashion. The American people, the President, and Mrs. Clinton deserve nothing less.

We are concerned, however, that the goal of fairness and the opportunity for the President and Mrs. Clinton to dispel any doubts about their lack of personal involvement in any of the alleged misconduct may be hampered by the frequent and unfortunate delays in this case. As you are aware, Madison failed and was taken over by the Resolution Trust Corporation in 1989; many of the allegations concerning Whitewater stem from the mid-1980s. However, due to various factors, including the delayed recusal of key officials in your Department and the U.S. Attorney in Little Rock, these allegations have not been pursued in an expeditious manner. As a result, immediate action is now critical.

Under the Federal Deposit Insurance Act, the RTC has only a five year period in which to bring a civil suit for fraud, starting from the date it became the

conservator or receiver of a failed institution. Thus, the ability of the RTC to take civil action may expire as early as March, 1994. The statute of limitations for criminal actions involving bank fraud is 10 years from the date of the occurrence of the criminal activity.

In order to resolve any and all questions regarding Madison and Whitewater, we urge you and the RTC to seek voluntary agreements with all relevant parties, including the President and Mrs. Clinton, the McDougals, David Hale, Jim Guy Tucker, Seth Ward, and the Rose Law Firm, to toll the running of the statutes of limitations -- in other words, to seek their agreement to voluntarily waive these defenses. These agreements will allow time for a complete and independent investigation and permit the orderly operation of the legal and judicial processes. It will also remove any doubt that the above named parties may seek to use the statute of limitations as a procedural defense. Furthermore, it will reassure the American public that anyone implicated in any wrongdoing will answer these allegations on their merits.

Attorney General Reno, thank you for your consideration of this request.

Sincerely,

Bob Dole

Alfonse D'Amato

Jan Meyers

Bill Clinger

Larry Pressler

Bob Michel

cc: Roger Altman
Resolution Trust Corporation

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HOWARD A. MENELL, REPUBLICAN STAFF DIRECTOR

United States Senate

COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS
WASHINGTON, DC 20510-6075

January 28, 1994

The Honorable Donald W. Riegle
Chairman
Committee on Banking, Housing and Urban Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Notwithstanding the recent appointment of a special counsel to investigate potential criminal wrongdoing in connection with Madison Guaranty, a failed savings and loan, the constitutional responsibility of Congress to consider the serious questions of public and regulatory policy raised by this controversy remains.

Last December Senator D'Amato requested Committee action with respect to this issue. In the intervening time, numerous questions that fall within our Committee's legislative and oversight jurisdiction have gone unanswered. A review of the limited information that is publicly available indicates a variety of germane issues that command the Committee's attention. We believe that the Banking Committee would be derelict in its duty if it does not address important issues, such as:

- Is the RTC continuing its investigations into Madison and what is the status of any such investigation? How is it that the RTC was able to prepare criminal referrals as early as October 1992, but is unable to follow-up with a civil proceeding? Will the RTC complete any current investigations prior to the expiration of the statute of limitations one month from now?

- Did the RTC act as quickly and effectively as possible to ensure that the Madison bail-out cost the taxpayers as little as possible?

- Did the principal shareholders or officers of Madison direct Madison resources into other business ventures in which they were involved?

- What caused the break-down of the FDIC's procedures for detecting and addressing conflicts-of-interest when the Rose Law Firm was retained to sue Frost and Co.?

- Why did the FDIC agree to settle its $60 million case against Frost and Co. for $1 million, an amount that is allegedly less than the limit of the firm's malpractice insurance coverage?

This Committee has a solid and proud record of addressing concerns relating to the safety and soundness of insured depository institutions. We believe the Committee has the duty to review thoroughly these and other relevant issues and to obtain information that will be useful as the Committee continues to consider new legislative initiatives and to improve the existing legislative framework to ensure the protection of depositors and taxpayers.

In light of this, pursuant to Rule 26.3 of the Standing Rules of the Senate, we request that you convene a special meeting of the Senate Committee on Banking, Housing and Urban Affairs to enable the full Committee to consider appropriate Committee action in connection with Madison. We believe the Committee must exercise its jurisdiction and examine the circumstances and events surrounding Madison's operations and failure.

Sincerely,

Phil Gramm

Alfonse D'Amato
Alfonse D'Amato

Connie Mack
Connie Mack

Kit Bond
Christopher Bond

Robt F. Bennett
Robert Bennett

Lauch Faircloth
Lauch Faircloth

Bill Roth
William Roth

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(202) 225-4247

February 3, 1994

Mr. Roger C. Altman
Interim CEO
Resolution Trust Corporation
801 17th Street, NW
Washington, DC 20434

Dear Mr. Altman:

I am in receipt of your February 1, 1994 response to the letter initiated by Senate Republican leadership concerning Madison Savings and Loan and I am pleased to learn that the RTC "will vigorously pursue all appropriate remedies" with regard to Madison's failure. It seems self-apparent that in order for the RTC to pursue vigorously all remedies it must have all relevant information at its disposal. Accordingly, I urge the RTC to seek and review all Whitewater Development Corporation documents turned over by the White House to the Justice Department.

In its investigation of Madison, the Minority has uncovered links between Madison and Whitewater, some of which may have contributed to the thrift's failure. Not only did James and Susan McDougal hold significant ownership interest in both entities (approximately two thirds in Madison and one half in Whitewater), but the other joint owners of Whitewater (Bill and Hillary Clinton) appear to have benefited directly and indirectly from the application of Madison resources. [See the attached memo.]

If the White House chooses to use the Justice Department to shield Whitewater documents not only from the public and Congress, but from other government agencies, such as the RTC, which have legitimate public law enforcement responsibilities, it is hard to believe a responsible resolution of the issues involved can be made by regulatory authorities.

I have high regard for your personal integrity, but as you know, from the beginning, it has been an awkward situation to have a presidentially appointed and confirmed officer of the Treasury Department also head an independent federal agency, the Resolution Trust Corporation (RTC). When this prospect was first suggested at the beginning of the Clinton Administration, it did

not strike the Minority as overly unreasonable for a month or two given the fact that no RTC head had been selected.

However, it has been over a year since the Administration has been in office and it can only be described as structurally unseemly for a political appointee of an Executive branch department to make what are in effect, law enforcement decisions for an independent federal agency as they may touch upon the President.

Accordingly, I would urge that you request from the Department of Treasury's General Counsel and Ethics Office advice as to whether you, as interim CEO of the RTC, are obligated to recuse yourself from any decisions concerning the resolution of Madison Guaranty. Just as the special counsel law was designed to relieve the Attorney General from an ethical dilemma of being both chief law enforcement officer for the nation and chief legal advisor to the President in circumstances when the President or a high level Administration officer is the subject of investigation, so it would appear ethically questionable for a political appointee of the Department of Treasury to make decisions for an independent federal agency when the President may be implicated in enforcement and civil actions.

In this regard, it should be clear that the issue is not whether a presidentially appointed official can oversee an investigation involving the President. Rather the issue is that officials with this responsibility should be confirmed for the job with that particular accountability. As you will recall it was a political appointee confirmed by the Senate that issued a cease and desist order for engaging in conflicts of interest against the son of a former President.

As you know, despite your strong letter to the Chairman of the House Banking Committee recommending against extension, Congress last year extended the statute of limitations for civil lawsuits brought against S&L wrongdoers. As you pointed out in your most recent letter, this extension "has afforded the RTC an opportunity to investigate further any civil claims which may be asserted against individuals or entities associated with Madison Guaranty for fraud, intentional misconduct resulting in unjust enrichment, or intentional misconduct resulting in substantial loss to the institution." Given, however, the impending running of the statute of limitations for certain kinds of actions, time is clearly of the essence for the RTC to make judgments about civil accountability in the failure of Madison.

Finally, I would like to reiterate my request, pursuant to Rules X and XI of the House Rules for all documents related to Madison Guaranty Savings and Loan, Little Rock, Arkansas. As you know,

on December 9, 1993, I wrote the RTC requesting access to all documents related to Madison Guaranty and its subsidiaries.

House and Committee Rules, House practices, and judicial precedent support the proposition that the Ranking Minority Member is the functional counterpart to the Chairman for Committee action. This being the case, a request for documents made by the Ranking Minority Member has parallel standing with a request made by the Chairman of the Committee. The Ranking Minority Member clearly has a voice in the process and is entitled to information that will enable the Ranking Minority Member to carry out his constitutionally mandated oversight responsibilities.

Therefore, the courtesy of a definitive reply to this document request is requested by 12 noon, Monday, February 7, 1994. On this matter, it is urged that you also consult with the Ethics Office as to the relevance of the previously discussed recusal issue.

Again, let me stress that to the degree a conflict situation may exist in this matter in no way reflects on your personal integrity. It is simply an awkward circumstance in contrast to a personal embarrassment.

Sincerely,

JAMES A. LEACH
Ranking Member

JAL:gp

Enclosure

MEMORANDUM

TO: Congressman Leach

FROM: Banking Minority Staff

RE: Madison Guaranty ("Madison")

In reviewing documents related to Madison in the possession of Minority Banking, we have come across material which may indicate direct payment of a loan of Bill Clinton's by Madison through a subsidiary.

Since the Minority's investigation is concerned with the possible misuse of federally insured funds to assist Whitewater and/or the former Governor, we thought we should share the following information with you.

SUMMARY

Based on documentary evidence available to the Minority, it appears that Madison Marketing served, in at least one instance, as a conduit of funds from Madison Guaranty to Whitewater and Governor Clinton. If this is correct, it would appear that insured funds from the failed Madison Guaranty were diverted and directly benefitted the Governor and his investment in Whitewater, a claim Clinton had denied.

DOCUMENTATION

- In [illegible], Bill Clinton obtained a loan from Security Bank of Paragould, Arkansas for approximately $20,800 (loan #975-585, Bill Clinton). The money from this loan was used to pay off the remaining balance of a loan at Madison Bank and Trust of Kingston, Arkansas that was provided for the purpose of constructing a modular home on lot #13 at Whitewater Estates. The loan at Madison Bank was provided in 1980 to Hillary Clinton in the amount of $30,000.

- On November 8, 1985, James McDougal sent a letter accompanied by a check to Charles Campbell, Vice President of Security Bank of Paragould, for $7,322.42. The letter from McDougal states that the check is principal and interest payment on "Note #957-585, Bill Clinton." [Note: It appears that the loan number is a typographical error with the superimposing of numbers 5 and 7 in the first three digits.]

(2)

- The check McDougal enclosed with his letter to Mr. Campbell is a Whitewater Development Corporation check dated November 7, 1985. The loan number referenced on the memo portion of the check is "Note #975-585."

- According to the check ledgers for the Whitewater Development Corporation (WDC), the corporation's checking account had the following balances: $189.50 on 10-10-85; and, $12.49 on 10-31-85. However, in order to cover the payment of $7,322.42 on the Clinton loan, a deposit is recorded on November 8, 1985 in the amount of $7,500.00. The deposit is listed as coming from "Madison Marketing."

- A 1986 Federal Home Loan Bank Board exam gives the impression that Madison Marketing was largely a sham corporation used to divert federally insured resources to insiders. The exam notes that "Until 1986, Susan McDougal owned Madison Marketing." The report also states the following:

  > "Madison Marketing is paid for doing all the general advertising for Madison Guaranty and most of the advertising for Madison Financial's land development projects. All of Madison Marketing's business is derived from Madison Guaranty or its subsidiaries. Since 1983 these payments total $1,532,000."
  >
  > "Given the evidence of Madison Marketing's invoices, it is questionable how much of these advertising services are actually performed by the firm. The actual work ... appears to be performed by others. It would appear that Madison Guaranty could have an employee perform similar work for much less money."
  >
  > "Mr. Latham [an officer of Madison] stated that Madison Marketing made no payments to any stockholders. This statement is false. As part of a test for such payments, the examiners discovered two remittances from Madison Marketing to Susan McDougal [a large stockholder of Madison] which total $50,000. This was a test, and there may be additional payments."

CONCLUSION

Given the above circumstances, it would appear that federally insured deposits (i.e., funds from Madison Guaranty through Madison Marketing), which, with the later failure of Madison became, in effect, taxpayer obligations, were transferred for the direct personal benefit of the former Governor.

The above payment also raises the question of whether Whitewater

was treated as an affiliate or related interest of Madison Guaranty and therefore subject to conflict of interest statutes. From a legal perspective, it could be argued that the McDougals' controlling interest in Madison Guaranty and their substantial ownership interest in Whitewater could qualify Whitewater as an "affiliate" of Madison Guaranty. Even if Whitewater is not considered a subsidiary, related interest, or affiliate of Madison Guaranty, such an extension of funds to a presumably "unaffiliated" entity would be very unusual and suspect.

It has been publicly reported, with respect to this loan repayment, that both Whitewater and the Clintons took a tax deduction related to interest paid on the same loan -- which the Clintons later recognized as improper double deduction after an article ran in the New York Times. What remains unclear is the larger question of whether the funds provided by Madison to reduce the Clinton's liability were proper or properly reported as income for income tax purposes.

As you know, we have received broad hints from within the RTC that the agency has had under review money transfers from Madison to Whitewater. We will not know whether this type of activity was more pervasive and part of a larger pattern unless, and until, the agency provides us the documents we have requested. If Madison provided any direct or indirect assistance to Whitewater, presumably half the value of such would redound to the advantage of each of the half owners. In any regard, the above money transfer underscores that then Governor Clinton had personal liabilities reduced by a payment from Madison. Such payment presumably carries ethical as well as tax implications and is part and parcel of the $47 to $60 million estimated taxpayer loss at Madison.

Attachments

Bank

P.O. BO 670 PARAGOULD, ARKANSAS 72450
501-239-9571

September 30, 1983

Governor Bill Clinton
1800 Center
Little Rock, AR 72205

Dear Governor Clinton:

Enclosed is a copy of our check #12677 in the amount of $20,800.00 representing the proceeds of your note. The original was mailed to: Madison Bank & Trust, Kingston, Arkansas.

Sincerely,
Charles D Campbell

Charles D. Campbell
Vice President

CDC/lam

Security Bank
P. O. BOX 670
PARAGOULD, ARKANSAS 72450

№ 12677

9-30 19 83

81-82/841

PAY

$ 20,800.00

TO THE ORDER OF Madison Bank & Trust 2-08

NOT NEGOTIABLE

FOR loan proceeds for Gov. Bill Clinton

:084100829: 2725-851

JIM McDOUGAL

P. O. Box 1583

Little Rock, Arkansas 72203

[illegible] copy

November 8, 1985

Mr. Charles D. Campbell
Vice President
Security Bank
P. O. Box 670
Paragould, Arkansas 72450

Re: Note #957-585, Bill Clinton

Dear Mr. Campbell:

Enclosed is a White Water Development Corporation check for $7,322.42, representing principal payment of $5,000 and interest payment of $2,322.42, on the above note.

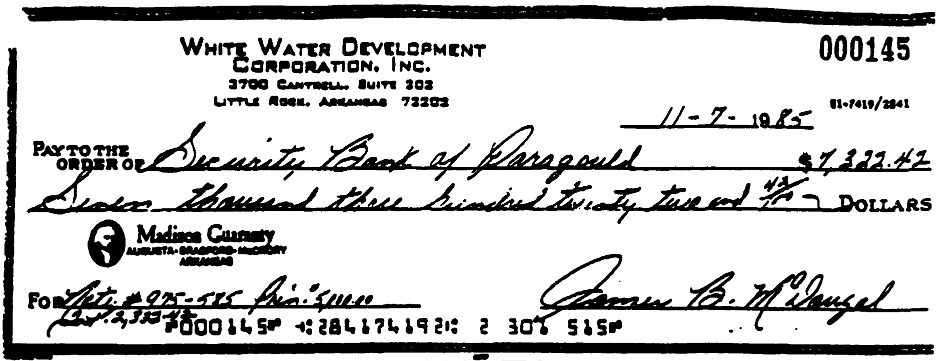
Thank you for your attention to this matter.

Sincerely,

Jim McDougal

Jim McDougal

JM/ss
Enc



WHITE WATER DEVELOPMENT
CORPORATION, INC.
3700 CANTRELL, SUITE 202
LITTLE ROCK, ARKANSAS 72202

000145

81-7419/2841

11-7-1985

PAY TO THE ORDER OF Security Bank of Paragould $7,322.42

Seven thousand three hundred twenty two and 42/100 DOLLARS

Madison Guaranty
AUGUSTA-BRADFORD-McCRORY
ARKANSAS

FOR Acct. #975-585 Prin. 5,000.00
Int. 2,322.42

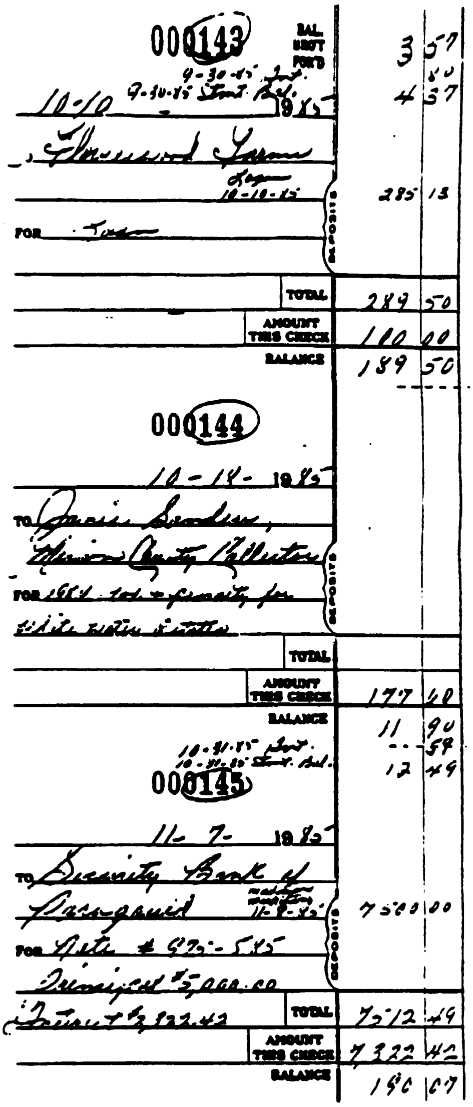
James B. McDougal

⑈000145⑈ ⑆284174192⑆ 2 301 515⑈

Amount notation on check is ~~[illegible]~~ different from notation on McDougal letter –

This is the
white
water check
ledger
Drawn on Madison

X



000143

BAL. BRO'T FOR'D	3	57
9-30-85 Int.		80
9-30-85 Stmt. Bal.	4	37

10-10 1985

Flowerwood Farm

Loan
10-10-85

FOR Loan

DEPOSITS	285	13
TOTAL	289	50
AMOUNT THIS CHECK	110	00
BALANCE	189	50

000144

10-14- 1985

TO Jonnie Sanders,
Marion County Collector

FOR 1984 tax + penalty for
White Water Estates

DEPOSITS		
TOTAL		
AMOUNT THIS CHECK	177	40
BALANCE	11	90
10-31-85 Int.		59
10-31-85 Stmt. Bal.	12	49

000145

11- 7- 1985

TO Security Bank of
Paragould

Madison Guaranty
11-8-85

FOR Note # 975-585
Principal $5,000.00
Interest $2,322.42

DEPOSITS	7500	00
TOTAL	7512	49
AMOUNT THIS CHECK	7322	42
BALANCE	190	07

FILED

MAR 14 1991

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
SECOND DIVISION

[redacted] GUARANTY SAVINGS AND LOAN ASSOCIATION, a State Chartered Savings and Loan; MADISON FINANCIAL CORPORATION, a Wholly Owned Subsidiary of Madison Guaranty Savings and Loan Association, Plaintiffs,	
Vs.	No. 88-1193
[redacted], an Arkansas Professional Association, and its directors James Alford, Michael Robinson, Gary Grey, Gaines Norton, Tim Gibbon, Steve Humphries, Alan Duncan, Frank Butts, Marjorie Itzkowitz, John Does A, B, C, D Defendant.	

FIRST AMENDED COMPLAINT

COMES NOW, Plaintiffs, and for cause of action states as follows:

I

PARTIES

1. Plaintiff Madison Guaranty Savings and Loan Association (hereinafter, Madison Guaranty) is a state savings & loan association duly chartered under the laws of the State of Arkansas. Plaintiff Madison Financial Corporation (hereinafter, Madison Financial) is a state chartered corporation and wholly owned subsidiary of Madison Guaranty.

2. Defendant Frost & Company is a professional associatio or partnership of public [redacted] with its principal place o business in Little Rock, Arkansas, comprised of the followin individual partners who are set forth as Defendants in paragrap 3.

3. Defendants James Alford, Michael Robinson, Gary Grey, Gaines Norton, Tom Gibbon, Steve Humphries, Alan Duncan, Frank Butts, Marjorie Itzkowitz, John Does A, B, C, D are directors or

7. John Latham at all relevant times was the President and Chief Executive Officer of Madison Guaranty and a member of its Board of Directors; and a member of the Board of Directors and the Secretary of MFC.

* 8. Susan McDougal was at all relevant times wife of James B. McDougal, member of the Board of Directors of Madison Guaranty, President of Madison Real Estate, a division of MFC, and President of Madison Marketing, a service provider to Madison Guaranty and MFC.

9. Madison Real Estate was a real estate brokerage operation owned and operated by Madison Financial with its principal broker Susan McDougal.

* 10. Madison Marketing was an advertising agency through which Madison Financial and Madison Guaranty purchased all of its advertising for itself and MFC's real estate developments.

11. Jim, David and Bill Henley ("Henley Brothers") were real estate agents and/or developers for Madison Real Estate, who sold property and received substantial commissions and/or development fees from Madison Financial.

12. Frost & Company purported to serve as independent auditor of Madison Guaranty and its consolidated subsidiary Madison Financial for the years 1984 and 1985.

13. James D. Alford at all relevant times was the audit and accounting partner of Frost & Company in charge of the Madison Guaranty audit.

14. Federal Home Loan Bank Board ("FHLBB") is the primary federal regulator of Madison Guaranty. FHLBB has oversight of the Federal Home Loan Bank of Dallas which has direct supervisory responsibility for Madison Guaranty.

IV

LEGAL AND AUDITING FRAMEWORK

15. This action arises from Frost & Company's breach of its duty and agreement to provide professional services in that (a) defendant Frost & Company violated Generally Accepted Auditing Standards ("GAAS") in connection with its audits of, and opinions

FEDERAL HOME LOAN BANK BOARD
OFFICE OF EXAMINATIONS AND SUPERVISION

Name and Address of Institution MADISON GUARANTY SAVINGS AND LOAN ASSOCIATION

1501 MAIN STREET, LITTLE ROCK, ARKANSAS 72203

District Number NINE Docket Number 7601

Examination as of (date) MARCH 4, 1986

Service Corporations and Other Affiliates Examined:

MADISON FINANCIAL CORPORATION

REPORT OF EXAMINATION

Prohibition of Disclosure or Release

This document is the property of the Federal Home Loan Bank Board and is furnished to the institution for its confidential use. Under no circumstances shall the institution, or any of its directors, officers, or employees, disclose or make this document or any portion of it public in any manner.

If a subpoena or other legal process is received calling for production of this document, the District Director - Examinations should be notified immediately. The attorney at whose instance the process was issued, and, if necessary, the court which issued the process, should be advised of the above prohibition, and referred to Part 505 of the General Regulations of the Federal Home Loan Bank Board.

Directors, in keeping with their responsibilities, should review this report thoroughly. This report should not be considered an audit report.

Docket No. 2601

[redacted] of the commissions paid by Madison Financial to Madison Estate, which significantly derives all of its business from Madison Financial.

Many of the sales, which generated these commissions, were to McDougal-Henley Group members who are acting as straw buyers. Madison Guaranty essentially retained the risks of ownership on these transactions because it fully financed these sales including the cash sales commissions. Thus, Madison Guaranty's position deteriorated because it retained the same ownership risks as before, but paid cash fees to these individuals. In addition, fees paid through Madison Real Estate were used as down payments in some of the straw land purchases in an apparent attempt to disguise 100% funding of the purchase by Madison Guaranty and its subsidiaries.

recent

Ke

Let

Messrs. McDougal and Latham cited an April 24, 1985 letter from a Federal Home Loan Bank of Dallas Supervisory Agent as permission to pay real estate sales commissions to Madison Real Estate. However, this letter in part, asks that the Board of Directors review Insurance Regulation 571.7 which is cited above in this comment.

2. Madison Marketing

Madison Marketing is paid for doing all the general advertising for Madison Guaranty and most of the advertising for Madison Financial's land development projects. All of Madison Marketing's business is derived from Madison Guaranty or its subsidiaries. Since 1983 these payments total $1,537,000. Until February 1986, Susan McDougal owned Madison Marketing. During a portion of this time, it was a corporation which was incorporated by Lisa Aunspaugh, reportedly a close friend of Susan McDougal.

Mr. Latham stated that after February 1986, Madison Marketing became an entity "d/b/a (doing business as)" for Madison Financial and ceased to be a corporation. However, it is not registered as a "d/b/a" in the County records. Also, its checking account has never been recorded on the books of Madison Financial.

Given the evidence of Madison Marketing's invoices, it is questionable how much of these advertising services are actually performed by the firm. The actual work of advertising, such as the design and production of commercials and providing air time or newspaper space, appears to be performed by others. Madison Marketing apparently just pays the bills of other providers and adds a 15% fee of its own. Examiners estimated this fee to be approximately $200,000 since 1983. It would appear that Madison Guaranty could have an employee perform similar work for much less money.

X

Mr. Latham stated that Madison Marketing made no payments to any stockholders. This statement is false. As a part of a test for such payments, the examiners discovered two remittances from Madison Marketing to Susan McDougal which total $50,000. This was a test, and there may be additional payments.

3. Designer's Construction

clear on this

Designer's Construction performs construction work on some of the land development projects and on some of the property securing Madison Guaranty loans. In 1985 and to date in 1986, $247,000 was paid for work performed for Madison Guaranty and its subsidiaries. The amount of loan proceeds paid to Designer's Construction on work for third party borrowers is unknown. Designer's Construction appears to be a

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

February 4, 1994

MEMORANDUM TO THE FILE

FROM: Ellen B. Kulka
General Counsel
Kulka

SUBJECT: Madison S&L

These are the talking points for anyone authorized to discuss the Madison situation. Additional information should not be supplied unless it has been properly approved. While this is standard procedure, anyone authorized to speak should be aware that the discussions of any additional information could have an impact on the agency's legal position in any matters arising out of Madison.

Attachment

cc: Altman
Hanson
Ryan
Dudine
Katsanos
Knight
Hindes

MADISON GUARANTY SAVINGS ASSOCIATION

TALKING POINTS

1. On February 28, 1989 Madison Guaranty was placed into conservatorship with the FDIC as managing agent for the FSLIC.

2. The FDIC was responsible for managing S&L's that failed in 1989 until this function was transferred to the RTC upon its creation on August 9, 1989.

3. Congress decided that the statute of limitations in FIRREA did not provide enough time to address all potential claims.

4. With the enactment of the RTC Completion Act on December 17, 1993, the statute of limitations within which suit could be brought for certain kinds of claims was extended for an additional two-year period from the date when it had already expired.

5. The claims to which the reopened statute of limitations apply are for civil fraud and intentional misconduct.

6. Upon the enactment of the Completion Act, the RTC began reviewing institutions including Madison in situations where the reopened statute of limitations would expire shortly.

7. In the case of Madison, if such claims do exist the RTC will vigorously pursue all appropriate remedies, with full awareness of the limited period available.

8. The RTC's jurisdiction is solely as to civil claims. Any potential criminal matters are within the jurisdiction of the Justice Department.

---

a. On January 21, the RTC received a letter dated January 10 addressed to Interim CEO Altman (signed by Senators Dole, D'Amato, Pressler and Representatives Leach, Fish Michel, Clinger and Myers) that asked for response to an attached letter dated January 11 regarding tolling agreements.

b. On January 25, Interim CEO Altman received a letter from Senator D'Amato asking about what actions the RTC has taken "to ensure that the applicable statute will not expire."

c. The RTC responded on February 1. The response stated that review of potential civil claims is underway and that, if such claims do exist, RTC will vigorously pursue all appropriate remedies using standard procedures.

February 4, 1994

DONALD W. RIEGLE, JR., MICHIGAN, CHAIRMAN

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JIM SASSER, TENNESSEE
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JOHN F. KERRY, MASSACHUSETTS
RICHARD H. BRYAN, NEVADA
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CAROL MOSELEY-BRAUN, ILLINOIS
PATTY MURRAY, WASHINGTON

ALFONSE M. D'AMATO, NEW YORK
PHIL GRAMM, TEXAS
CHRISTOPHER S. BOND, MISSOURI
CONNIE MACK, FLORIDA
LAUCH FAIRCLOTH, NORTH CAROLINA
ROBERT F. BENNETT, UTAH
WILLIAM V. ROTH, JR., DELAWARE
PETE V. DOMENICI, NEW MEXICO

STEVEN B. HARRIS, STAFF DIRECTOR AND CHIEF COUNSEL
HOWARD A. MENELL, REPUBLICAN STAFF DIRECTOR

United States Senate
COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS
WASHINGTON, DC 20510-6075

February 8, 1994

Mr. Roger Altman
President Interim and
  Chief Executive Officer
Resolution Trust Corporation
801 17th Street N.W.,
Washington, D.C. 20434

Dear Mr. Altman:

The RTC has acknowledged that the statute of limitations for any civil action arising from the failure of Madison Guaranty will run out on February 28. After February 28, the RTC will not be able to recover any more of the $47 million the taxpayers were forced to pay to close Madison.

The RTC took over Madison in 1989. Presumably, the RTC has thorough knowledge of the institution, the reasons for its failures and the individuals and activities that contributed to its demise. The RTC made a criminal referral to the Justice Department perhaps as early as October, 1992 based on its extensive information and investigation.

The RTC's inaction on the civil side is therefore even more disturbing. With the civil statute of limitations about to run out, the RTC must take action immediately. Unless the RTC takes actions, the rights of the American people to justice and financial recovery will be forfeited to a legal technicality.

Your February 1 letter offered assurances "that the Resolution Trust Corporation is conducting a thorough review of the potential civil claims it possesses as a result of the failure of Madison." Moreover, you stated that the RTC "will vigorously pursue all appropriate remedies using standard procedures in such cases, which could include seeking agreements to toll the statute of limitations."

Beyond this general response, we are seeking specific answers to the following questions:

- What is the RTC doing to obtain voluntary agreements to extend the statute of limitations from all potential defendants in the Madison/Whitewater matter beyond February 28, 1994?

- In the event the RTC cannot obtain tolling agreements, will the RTC file appropriate civil claims against all individuals whom the RTC has reasonable cause to believe may be liable to the United States prior to February 28, thereby tolling the statute and allowing time for refinements to the original complaint?

- Will the RTC provide us with a complete report on the status and scope of its "thorough review" as soon as possible?

Time is of the essence. The RTC has had years to investigate Madison Guaranty; it should have complete knowledge of the situation and adequate legal foundation for any civil suits. It has only weeks left to act and it should do so without further delay.

We must respectfully request that you respond fully and promptly to this letter.

Sincerely,

Alfonse D'Amato

Don Nickles

Trent Lott

Strom Thurmond

Richard G. Lugar

Conrad Burns

Larry E. Craig

Dirk Kempthorne

Slade Gorton

Jesse Helms

Kit Bond

Paul Coverdell

Mitch McConnell

Pete V. Domenici

Lauch Faircloth

Nancy Landon Kassebaum

Jon Kyl

Dan Coats

Chuck Grassley

Bob Smith

John McCain

Larry Pressler

Jim Jeffords

Ted Stevens

Malcolm Wallop

Orrin Hatch

John Warner

Bob Packwood

DONALD W. RIEGLE, JR., MICHIGAN, CHAIRMAN

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HOWARD A. MENELL, REPUBLICAN STAFF DIRECTOR

United States Senate
COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS
WASHINGTON, DC 20510-6075

February 18, 1994

Mr. Roger Altman
President and
Interim Chief Executive Officer
Resolution Trust Corporation
801 17th Street, N.W.
Washington, D.C. 20434

Dear Mr. Altman:

Please provide to my staff copies of all the documents pertaining to Madison Guaranty Savings and Loan ("Madison"), including all subsidiaries of Madison, that are currently in the possession, or subject to the control, of the Resolution Trust Corporation ("RTC"). In addition, please forward the names and titles of all RTC employees that are involved in any review or investigation of the Madison Guaranty matter. Should the RTC refuse to release any documents, please provide, in writing, a summary index of documents that the RTC refuses to provide as well as an explanation of the grounds alleged for that refusal.

Please forward this information to Douglas Nappi, at the Senate Committee on Banking, Housing and Urban Affairs, 534 Dirksen, Washington, DC 20510. Mr. Nappi can be reached at 202-224-1577.

Thank you in advance for your assistance.

Sincerely,

Alfonse D'Amato

Alfonse M. D'Amato
United States Senator

AD:dn

Identical letters were
sent to 41 Republican Senators
who signed incoming letter.
RT-12766-12804
12814-12815
cc: Mr. Ryan
Standard Distribution
Mr. Adair
Ms. Kulka
Ms. Kauper
OGR Reps & Staff

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

February 23, 1994

Honorable Alfonse D'Amato
United States Senate
Washington, D.C. 20510

Dear Senator D'Amato:

This is in response to your letter of February 8, 1994 concerning the RTC's efforts relating to possible civil litigation resulting from the failure of Madison Guaranty.

Your letter makes the statement that, "The RTC's inaction on the civil side is ....disturbing." I want to reiterate what I said in my letter of February 1, 1994, which is that the RTC "is conducting a thorough review of the failure of Madison." While your letter characterizes this as a "general response," I must point out that it is inappropriate for me to address at this time any specifics relating to this matter.

It is standard operating procedure not to discuss any matter relating to the review of potential civil claims of any institution. While it would be inappropriate for me to provide any information relating to the status of our review at this point, [redacted] you that the RTC is prepared to make a full public [redacted] the handling of civil matters under the [redacted] it is appropriate to do so.

Sincerely,

John E. Ryan
Deputy CEO

801 17th Street, N.W. Washington, D.C. 20434

RT-1 3
cc: Mr. Ryan
Standard Distribution
Mr. Adair
Ms. O'Brien
✓Ms. Carter

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

February 23, 1994

Honorable Alfonse M. D'Amato
Ranking Minority Member
Committee on Banking, Housing,
and Urban Affairs
United States Senate
Washington, D.C. 20510

Dear Senator D'Amato:

Interim CEO Roger C. Altman has asked me to respond to your letter dated February 18, 1993, requesting copies of records pertaining to Madison Guaranty Savings and Loan. As you may know from our discussions with your staff, the Resolution Trust Corporation is concerned that disclosure of different categories of information covered by your blanket request could harm the RTC's future position with respect to possible civil litigation; jeopardize the work of independent Counsel Robert Fiske's criminal investigation; result in the release of personal or corporate financial information in violation of Federal law; or, constitute a waiver of one or more privileges to which the agency is entitled.

I have instructed RTC personnel to work with your staff to provide you with all the documents that we can provide within the operating strictures posed by your request. Despite the RTC's desire to cooperate with you, a review of relevant statutes and case law has left the RTC with no other option than to take the position that a Ranking Minority Member of the Senate Committee on Banking, Housing, and Urban Affairs has the authority of an individual Member of Congress and therefore may only obtain information that would be otherwise available to the public pursuant to the Freedom of Information Act. Therefore, the RTC believes that disclosing privileged information to you could raise questions of waiver and could detrimentally affect any further legal actions that may be contemplated regarding Madison.

Today, your staff received over 6,500 pages of documents which are listed in an enclosure to this letter. The RTC has already provided your staff with extensive inventories of Madison-related documents. Since there are over 300,000 pages of Madison-related documents, it would be helpful to have your staff narrow your request to specific documents or classes of documents. At that point, RTC personnel will discuss with your staff how we may be able to meet your request.

801 17th Street, N.W. Washington, D.C. 20434

The RTC will continue to work with your staff to make available to you as many records as possible within the limitations discussed above.

Sincerely,

John E. Ryan
Deputy CEO

Enclosure

References to "Madison Guaranty"

Senate Banking Committee

February 23, 1994
Semi-Annual RTC Oversight Board Hearing

RTC Responses

QUESTIONS FROM SENATOR BOND

FDIC and RTC Procedures
Question 1A:

Mr. Altman, the FDIC and RTC have a stated duty to each receivership and conservatorship and to the taxpayers to maximize recoveries from any viable source, including directors and officers, accountants, legal counsel, appraisers, and insurance policies covering their professional conduct. As I understand it, both the FDIC and RTC conduct an investigation into every institution in its caseload to determine potential civil recoveries and whether criminal conduct contributed to the failure. Moreover, an investigator will conduct a preliminary review of financial records, and then will submit a post-closing report within 90 days of the failure of the institution. The purpose of the report is to determine which potential claims can be terminated and which merit further investigative resources. If termination is recommended, written reasons for the termination must be given and approved. If a recommendation to sue is made, the investigator must prepare an "authority to sue" memorandum. A referral is then made to the relevant agency, such as the U.S. Attorney for the Department of Justice.

Answer 1A:

Before addressing specific questions on the Professional Liability Section, it is helpful to review and clarify the processes employed by the RTC. First, the general process used to identify, investigate, negotiate, and settle professional liability actions involves RTC investigators, RTC attorneys and their outside counsel reviewing the records accumulated by a failed institution, talking with witnesses, voluntarily and under subpoena; examining reports of thrift examiners, auditors and attorneys employed by the failed thrift and, where appropriate, retaining experts to examine transactions and documents. The RTC increasingly is utilizing its administrative subpoena powers to discover information from and about targeted individuals in order to obtain more information about their activities and financial resources. Ultimately, all of this information is evaluated in a variety of ways.

Litigation risk analysis is performed by outside counsel and in-house attorneys in order to assess the strength of the RTC's claims and the likelihood that a successful outcome can be achieved. Potential damage recoveries are assessed and compared with available resources in order to determine whether actual recovery is likely if claims are successfully asserted. The costs and expenses of pursuing the claims are estimated and reviewed by the RTC staff.

If, after all of these investigations, estimates and calculations, the staff attorney and investigators believe that there is a substantial likelihood that a claim may be asserted, successfully and cost-effectively, a formal recommendation is made by the RTC attorney. This recommendation is reviewed by senior officials in the Division of Legal Services and the business side of the RTC. If all concur in the analysis and recommendation, a civil action is approved.

Contrary to the assertion made in the above statement, there is no requirement that preliminary review of possible claims be completed within 90 days although in some offices that became a general goal when the pace of institution closings slowed to a more manageable level and backlogs were reduced. Over 272 institutions, eventually placed under RTC control, failed before RTC came into existence. Madison Guaranty was, of course, one among this group.

The other misconceptions in the statement the process for recommending suit and the notion that such suits are referred to the Department of Justice. As stated above, all recommendations to pursue claims through litigation are prepared by Professional Liability Section attorneys and their supervisors; they are not written or prepared by investigators. Professional liability cases, if approved, are referred in virtually every case to outside counsel retained by the RTC, not the Department of Justice. On only two occasions has the RTC, acting through a Memorandum of Understanding with the Department of Justice, Civil Division, referred professional liability matters to the Department of Justice. Neither of these matters is currently in litigation.

QUESTIONS FROM SENATOR BOND

FDIC and RTC Procedures
Question 1B:

Was this the procedure followed by the RTC with regard to Madison Guaranty?

Answer 1B:

The Madison Guaranty civil claim investigation and the prosecution of a claim against the institution's auditors were initially conducted by the FDIC Legal Division and FDIC Investigations. These matters were concluded before there was a separate RTC Legal Division, but it appears that the procedures described above were followed. There was a subsequent investigation into possible fraud claims by RTC Investigators. For additional information, see Attachment J "Madison Guaranty Savings & Loan: Chronology of Significant Events."

QUESTIONS FROM SENATOR BOND

RTC's Relationship with the Department of Justice
Question 2b:

Has the Madison Guaranty referral been handled differently from other referrals? In what way?

Answer 2b:

The Madison Guaranty referrals were handled pursuant to procedures previously discussed in our response to Question 1.

QUESTIONS FROM SENATOR BOND

RTC's Relationship with the Department of Justice
Question 2c:

Who is the White House liaison on the Madison Guaranty Issues? Has this liaison or any other White House staff made any special requests concerning the Madison Guaranty probe?

Answer 2c:

The RTC has no liaison with the White House on this matter. Former CEO Roger Altman has responded to the Committee regarding his contacts with the White House.

QUESTIONS FROM SENATOR BOND

Other RTC Referral Issues
Question 3A:

Mr. Altman, it appears that the first criminal referral in the Madison Guaranty probe was initiated in the fall of 1992. Apparently without any discussion with Justice concerning the first criminal referral, the RTC then sent another team of investigators to Little Rock in January of 1993 to more fully examine the issues surrounding Madison Guaranty. By October, 1993, the RTC had drafted an expanded referral.

Is this normally how referrals are handled?

Answer 3a:

RTC will not comment on the Madison criminal referral process beyond the answers provided to questions 1 and 2.

QUESTIONS FROM SENATOR BOND

Other RTC Referral Issues
Question 3D:

I am also interested in getting a timeline and explanation of all criminal referrals and related responses and memorandums in the Madison Guaranty probe. By this I mean, I would like the dates of all referrals and responses to these referrals, including the names of all Justice and RTC employees involved. If these issues are considered confidential, how so? Also, how could release of this information prejudice an ongoing investigation?

Answer 3D:

For the reasons previously stated, RTC will not respond to this question.

The public release of information pertaining to suspected criminal conduct could lead to the concealment of evidence or other activities that would make the investigation difficult to complete. Criminal investigations are never conducted in a public forum.

QUESTIONS FROM SENATOR BOND

Justice Memo - Criminal Investigation Unwarranted
Question 4:

Mr. Altman, a March 19, 1993 memo from the criminal division of Justice apparently concluded that the initial RTC criminal referral on the Madison Guaranty probe "did not appear to warrant initiation of criminal investigation." **(a)** How was this decision made in terms of the decisionmaking procedure and the underlying legal theory? **(b)** Who is responsible for communicating these decisions?

Answer 4:

(a) This question should be directed to the Department of Justice.

(b) This question should be directed to the Department of Justice.

QUESTIONS FROM SENATOR BOND

Document Inventory
Question 5:

Mr. Altman, I would like a complete copy of the current inventory of all documents relevant to the Madison Guaranty and Whitewater probe. I would also like a list of all prior document inventories and dates of these inventories. I would also like a list of where all documents were obtained from and when? This information may be provided confidentially to the committee. If you refuse to provide this information, I would like a legal opinion on how the release of this information could prejudice an ongoing investigation?

Answer 5:

Inventories maintained by RTC investigators are working documents that are material to the investigation itself and cannot be released at this time. The RTC has provided to the Committee and individual members of Congress copies of Madison Guaranty document inventories.

QUESTIONS FROM SENATOR BOND

For RTC Acting Director Altman:
Question 6:

Another area of concern is the seeming lack of coordination between the RTC and the Department of Justice.

In March of 1992, the New York Times reports on the Whitewater/Madison situation with allegations of sweetheart deals in return for lenient regulatory treatment, and the issue suddenly became part of the 1992 Presidential campaign. RTC then sends a new team of investigators to Arkansas to look more closely at connections to local politicians.

Is this an accurate portrayal of the reason/reasons that the RTC became involved again in the Madison case? If not, what did occur? Who made the decision to begin the investigation of Madison? Did the RTC regional office notify the national office, or the Department of Justice that they were opening a potential case against Madison? If so who was informed?

Answer 6:

For the reasons previously stated, RTC will not respond to these questions.

QUESTIONS FROM SENATOR BOND

Question 7:

In September 1992 regional RTC forwards a criminal complaint dealing with Madison Guaranty to the Department of Justice. According to press reports the local federal attorney in Little Rock is concerned that because Bill Clinton is included in the referral, that the decision to pursue the case should be made in Washington. He sends an urgent letter on October 7, 1992 asking for assistance.

Are the press reports accurate? Please provide a copy of that letter for the record.

Answer 7:

This question should be directed to the Department of Justice. For the reasons previously stated, RTC will not respond to this question.

VERBAL QUESTION #3
VERBAL QUESTIONS FROM SENATOR BOND

Verbal 3:

Has the Records Management Department been given instructions about the handling of Madison documents from somebody outside? Have they found any evidence of missing documents, or have they found that any documents are apparently missing?

Answer Verbal 3:

The records management department in Kansas City and in Washington has not been given any instructions regarding the handling of Madison documents from outside the Corporation. The records have been managed using our standard procedures with the exception that the Kansas City records management department has established a central point of contact for all inquiries relating to Madison records. In addition, the Kansas City records management department has found no evidence of any missing documents from the collection of Madison records under its control.

VERBAL QUESTION #5
QUESTIONS FROM SENATOR BOND

Verbal 5:

Will Pillsbury & Madison, as outside counsel for RTC on Madison, review the potential of suing various other law firms who represented Madison, or even the Board of Directors? Are there other outside counsel or consultants hired in conjunction with Madison?

Answer Verbal 5:

Pillsbury, Madison & Sutro, as outside counsel for the RTC, is working under the direction of the RTC Professional Liability Section staff. At this point, there are no other counsel hired by the RTC in connection with this investigation. While we are seeking to engage other professionals in this case, they have not yet been engaged.

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

February 24, 1994

PETER, I HAVE TAKEN THE ORIGINAL DOCUMENT AND PULLED OUT ALL THE QUESTIONS NOT RELATED TO MADISON...

MEMORANDUM TO: Jack Ryan
Deputy CEO

MEMORANDUM FROM: Peter Knight
Director
Office of Governmental Relations

SUBJECT: Senate Oversight Board Hearing
February 24, 1994

We have completed a review of the transcript from the Senate Banking Committee hearing last Thursday. Below are excerpts from the transcript that include all of the questions asked directly to Mr. Altman and the replies Mr. Altman gave. Questions that warrant further follow up are bolded and assigned to the proper area for response.

We expect to receive additional written questions from the Senate Banking Committee by the middle of next week. OGR will coordinate the assignments of the responses to those questions at that time.

* * * * * * *

Senator Bond
Pg. 109 ln 3-10
"Mr. Altman, are there special measures taken in the resolution of a failed thrift when you find it to be affiliated with a high profile individual? Someone in government, for example?
Mr. Altman. The procedures, Senator, which the RTC follows are intended to be identical in each case; and they certainly have been identical in the case discussed this morning."

Senator Bond
Pg. 109 ln 11-21
"After you discovered that the President of the United State's name might be mentioned in a criminal referral being made by your agency, did you take any steps to ensure that documents created in the case were protected and preserved?
Mr. Altman. When the possibility of a criminal referral was brought to me, I took one step. That was to instruct all of the relevant RTC personnel to handle any judgements about criminal referral in

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the same exact fashion that they would be handled in any other PLS matter with no deviation whatsoever. As far as documents are concerned, the same thing."

Senator Bond
Pg. 109 ln 24 - Pg. 110 ln 1
"You instructed them to handle the documents in the same way?
Mr. Altman. That is correct."

Senator Bond
Pg. 110 ln 17-23
"Can you assure the Committee that no one has issued any instructions to you or your agency to retrieve, relocate, destroy, or tamper with any documents dealing with Madison, its affiliated enterprises, directors, owners, or business partners?
Mr. Altman. I have no knowledge whatsoever of any such effort."

Senator Bond
Pg. 110 ln 24 - Pg. 111 ln 8
"Has anyone in your agency, specifically the Department of Records Management, indicated to you there are any missing documents? Or has anybody discovered any files missing or unaccounted for?
Mr. Altman. No
Senator Bond. You are absolutely sure?
Mr. Altman. No. Your question was: Has anybody indicated to me.
Senator Bond. All right.
Mr. Altman. The answer is 'no.'"

Senator Bond assigned to Legal
Pg. 111 ln 9-19
"Would you inquire of your Records Management Agency whether they have either (a) been given instructions about the handling of documents from somebody outside; or, if they have found any evidence of missing documents, or find that there are documents apparently missing, if you would inquire of that and advise us if you do find that there is such information?
Mr. Altman. Yes"

Senator Bond
Pg. 111 ln 20 - Pg. 112 ln 4
"Finally, will the RTC release copies of the initial September 1992 referral to the Department of Justice, and copies of the second referral on October 1993?
Mr. Altman. Senator, we are not in a position to release any documents that could have a negative impact on the investigation. I do not think you would want us to do that. Documents of that type that you are talking about fall into that category."

Senator Bond
Pg. 112 ln 14 - Pg. 113 ln 6
Senator Bond. Mr. Altman, I know there are many aspects to it. I

was just reading one of the stories appearing in Commentary which referred to those allegations. We do not know if they are true or not, but I would suggest that someone should make inquiry to ascertain whether there is any truth to the allegations and, if so, to take appropriate steps to recover such documents. Finally, where are the documents being kept? And have they been thoroughly catalogued?
Mr. Altman. I can assure you that all proper procedures relative to safeguarding of documents are being followed. We also have a responsibility in regard to any case to obtain all the necessary materials for purposes of making a litigation decision. So any documents that the legal staff at the RTC believes would pertain, or would help it reach a conclusion on a litigation decision on this or any other matter, it makes a maximum effort to obtain.

Senator Sarbanes
Pg. 132 ln 4-19
"Do I understand that the cases to which they are making such reference were handled in the same way that all other cases were handled? In other words, according to regular procedures?
Mr. Altman. Yes.
Senator Sarbanes. And was anything unusual done in these cases? Or was the procedure that was followed consistent with what was followed in any cases where references were made?
Mr. Altman. Senator, the instructions that I gave were that all procedures, normal procedures, should be followed in this manner without any deviation.
Senator Sarbanes. And to the best of your knowledge, that is the case. Is that correct?
Mr. Altman. Yes."

Senator Gramm
Pg. 154 ln 13-16
"What would be wrong with letting members of this committee that have oversight responsibility look at the records in this case, or any other case, where we have oversight responsibilities?"

Mr. Altman
Pg. 155 ln 12-23
"The RTC has been asked not to make information about criminal referrals in the Madison matter public. It is standard practice not to release information of that kind, or any other, which might compromise a criminal investigation.

And of course we are cooperating with the independent counsel to try to assure that we do not release any information which would jeopardize his investigation.

As I said earlier, I would think you would not want us to do that in order that that investigation should proceed as it should."

Senator Domenici
Pg. 161 ln 8-13
"Mr. Altman, I think you told Senator Bond that you would not make available any documents that 'would have a negative impact on the

legislation.'"
Mr. Altman: "No, I do not think so. I think I said that we would try not to release any documents that would have a prejudicial effect on the investigation."

Senator Domenici
Pg. 161 ln 22 - Pg. 162 ln 5
"Why can you not release all of these documents for this kind of hearing?"
Mr. Altman: "Senator, we have had--or I am advised we have had a couple of conversations with Mr. Fiske, the Independent Counsel. He has asked us not to release any documents that could jeopardize his investigation.
I do not know why you would want us to do that, to jeopardize his investigation."

Senator Domenici
Pg. 162 ln 9 - Pg 163 ln 14
"But if the Special Prosecutor has no objection to the Committee being provided copies of documents, can the Committee then count on the RTC's full cooperation in providing them?"
Mr. Altman: "You should direct that question to Mr. Fiske."
Senator Domenici: "No.
If he has no objection, then we count on you to release them?"
Mr. Altman: "I think the answer is 'yes.'"
Senator Domenici: "Does the RTC have an Inspector General?"
Mr. Altman: "Yes, sir."
Senator Domenici: "Has the Inspector General investigated the conflict of interest allegations regarding the Rose firm?"
Mr. Altman: "I do not know the answer to that. I am nearly certain it is 'no,' because as you know it was not the RTC that ever had any retainer relationship or other relationship with the Rose firm."
Senator Domenici: "...my question is:
If the FDIC agreed to have its IG look into Madison, would there be any reason why you would not?"
Mr. Altman: "I have no objection to the IG's looking into any matter that he sees fit to look into, or that he is requested on an official basis to look into. That is what he is there for."

Senator D'Amato
Pg. 169 ln 10 - Pg. 170 ln 25
"Mr. Altman, I think you said that you and an official from Treasury sought Mr. Nussbaum? Is that correct?"
Mr. Altman: "Yes, I did."
Senator D'Amato: "Could you tell us why?
In other words, I have difficulty understanding why it is you felt compelled to seek out the White House counsel."
Mr. Altman: "Solely to ensure--"
Senator D'Amato: "Solely to?"
Mr. Altman: "Solely to be sure that he understood the legal and procedural framework within which the RTC was working.
If you recall, as I said, at that time there was a February 28th date which was the subject of major attention in the Congress and in the press. It is not uncommon of meetings of that type to take

place.

And I describe is as a "heads-up" and a very stiff conversation."

Senator D'Amato: "A heads-up? In what connection would that heads-up be? Do you mean that the statute of limitations was running?

Mr. Altman: "No, that they should be aware of the internal processes and the types of criteria which the RTC was going to be following in order to reach a decision by February 28th."

Senator D'Amato: "Were any representatives of the President or Mrs. Clinton, were any legal counsel, which I think would be appropriate, speaking to the counsel for the RTC, or people handling this particular matter?

I mean, was there any legal representation going on?

Was this you just called them?

Did they have any representatives any counsel who may have been meeting with staff people, or talking to staff people?

Mr. Altman: "I was accompanied by our General Counsel, Treasury General Counsel.

Mr. Nussbaum had his assistant with him. And Mr. Ickies and Margaret Williams were both at the--"

Senator D'Amato: " Oh? Ickies is in it, huh?..."

Senator Bond
Pg. 182 ln 11-14
"Mr. Chairman, for the benefit of my friend from Massachusetts, I am going to submit a chronology and some questions for the record to the RTC to answer."

Senator Bond
Pg. 182 ln 23 - Pg. 189 ln 2
"When we last talked, Mr. Altman, you said that normal procedure would be for the RTC to seek out and acquire records wherever they were.

Now if the RTC under your direction were requesting records from the First Lady as the White House, a rather high-profile event, would it not be customary for them to advise you that they were requesting records in the possession of the First Lady?"

Mr. Altman: "Senator, I do not get involved in any substantive aspects of any PLS case, particularly or including documents that they may seek, so they have never brought that to my attention since I have been in this job and that goes right through to today."

Senator Bond: "So you would not expect them to tell you?"

Mr Altman: "No, I would not."

Senator Bond: "I find that remarkable.

In a normal criminal referral case, the RTC creates and retains an inventory of pertinent documents used to make the case. As I understand it, at least one version of the inventory has been provided to some Members of Congress.

Could you furnish to this Committee the latest, most up-to-date inventory, and provide it for the hearing record along with the previous versions? Would you make that available?"

Mr. Altman: "Well last evening we supplied the 6500 pages of information to Senator D'Amato's office, as we had sometime earlier to Congressman Leach."

Senator Bond: "And is that the entire inventory?

Are those all the documents?

What did you--You give new challenge to Federal Express and Overnight Postal Service to get the delivery of such a substantial stack of documents at this particular time. It is a new standard for delivery in the package express."

Mr. Altman: "Well, I have here a list of the documents."

Senator Bond: "Is that the latest version?"

Mr. Altman: "This is just a list of what the documents are. There are 6500 in total pages. This is a list of the documents we provided."

Senator Bond: "If you could make one available for the record, we would like to have it."

Mr. Altman: "I would be delighted."

Senator Bond: "We would appreciate it.

(COMMITTEE INSERT)

Senator Bond: "Next, when did you become aware of the RTC recommendations that further criminal prosecution be taken against Madison?"

Mr. Altman: "Last fall. I was advised that the question of a referral to the Justice Department was under consideration at the RTC. And as other members of the RTC staff will attest, I said that normal procedures with no deviations whatsoever should be pursued, including chain of command procedures, in terms of reaching that conclusion.

I might tell you that typically decisions like that are made at the Regional Office level, and it was in this case."

Senator Bond: "Were you aware that the Regional Office had asked the National Office to make a determination as to whether the Clintons' name should be in the new expanded referral?"

Mr. Altman: "No."

Senator Bond: "You did not know they were asking for the National Office to make a determination?"

Mr. Altman: "No. I was simply informed that this issue was on the table, and my reaction was--and I had only one conversation about it--that normal procedure should by followed. That is the way we are going to handle this thing from beginning to end."

Senator Bond: " How was the White House notified of the referral?"

Mr. Altman: "They were not notified by the RTC, to the best of my knowledge."

Senator Bond: "Nobody in your agency, to your knowledge, advised the White House staff that this was going to be a major--this could be a major source of concern?"

Mr. Altman: "Not to my knowledge."

Senator Bond: "Mrs. Ford, do you know if the White House was notified by the RTC?"

Mrs. Ford: "No. We have had no involvement at the Oversight Board whatsoever."

Senator Bond: "When was the firm of Madison & Pillsbury put retainer by the RTC?

Do you know?

For how long, and at what cost?"

Mr. Altman: "I do not know that. I am aware that that firm has been retained as outside counsel on this matter, but I am not aware of the date on which it was retained nor the retainer arrangements."

Senator Bond: "Will they review the potential of suing the various law firms who represented Madison, or the Board of Directors?"

Mr. Altman: "I do not know the answer to that question."

Senator Bond: "We would appreciate knowing that, if you could, later. And if there are other outside counsel or consultants hired in conjunction with the case, we would like to know that."

(COMMITTEE INSERT)

Senator Bond: "Finally, I am advised that the list you have there is just an inventory of the documents provided to Senator D'Amato. It is not the complete inventory of the documents pertaining to Madison.

If I am mistaken, or in either event we would appreciate receiving a copy of the inventory of the entire documents."

Mr. Altman: "Well, Senator, I am not sure I fully understand your question. What we have released amounts to what we have been asked for, less any documents that in our judgement could prejudice the investigation.

I told you earlier that we had had a couple of conversations--I have not had them--I am advised that there were a couple of conversations with Mr. Fiske, with each side asking the other not to release information or take any other steps which would prejudice either side's investigation, and we are trying to adhere to that...

Well any information I assure you that we have supplied to Congressman Leach or anyone elsewhere in the Congress we are delighted to supply to you or anyone else here that would like them.

Senator Domenici

Pg. 190 ln 14 - Pg. 192 ln 8

"Well, I guess what I am wondering is are we getting the right perspective of why you did this?

Did you go there because you wanted them to know that clearly they might be asked to sign a tolling agreement?

Or to know that the normal process was that the statute is going to toll and if there is reasonable grounds to suspect something, they might expect a lawsuit?

Why else would you give them a heads-up?"

Mr. Altman: "The difference between this and a matter like the one you referred to is I had been receiving--I had begun to receive a lot of inquiries, including in writing, from Congress as to what procedures the RTC was going to follow.

I wanted to give them the same sense of those procedures that I was giving Members of Congress. I said to them nothing different than I have said to Members of Congress.

Senator Domenici: "Well I understand that, but I guess what I am getting at is there must have been reason for telling them that.

Congress was just saying the statute is going to run, what are you going to do, so you went over there to tell them we are going to apply the same thing we do in any other case?

That is the "heads-up" that you were giving them?"

Mr. Altman: "That is right."

Senator Domenici: "Was it serious enough that you wanted them to know because there might be something that they would be confronted with that was untoward as you applied your rules like asking for a tolling agreement, or filing a lawsuit?"

Mr. Altman: "Again, the essence of what we said was that the statute of limitations which then applied was scheduled to expire on February 28th, 1994.

The RTC was going to make every effort to make a decision by that date.

It could fundamentally reach only one of two decisions:

That there was the basis for a claim, or that there was not.

If there was a basis for a claim, then we would either seek a tolling agreement to permit more discovery and more preparation, or we would file that claim in court."

Senator Domenici
Pg. 193 ln 17 - Pg. 194 ln 14
"My last observation would be that it is inconceivable to me, Mr. Altman, that you would really be concerned that people involved in the investigation, whomever they are, whether it be people in Arkansas, whether it be confidants of the President, or whomever, that they would not know that the statute of limitations was going to toll, and that that presented a situation that you had to advise somebody on.

I just do not think anybody involved in this would not have known that."

Mr. Altman: "Well, Senator I also--I would agree with you. I cannot say for sure. I cannot say what was in their minds. I doubt very much that they did not know about the statute of limitations."

Senator Domenici: "Right."

Mr. Altman: "What I was saying was not that. What I was saying I did not know if they knew, and frankly my impression is, as a result of that meeting, they had not previously known what procedures the RTC would be following.

By that I mean that you have to choose between--you have to reach a conclusion as to whether there is a claim or there is not, and then what you have to do if you reach a conclusion that there is."

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(202) 225-4247

March 1, 1994

The Honorable Roger Altman
Interim CEO
Resolution Trust Corporation
801- 17th Street, N.W.
Washington, D.C. 20434

Dear Mr. Altman:

Enclosed is a self explanatory letter to Mr. Bernard Nussbaum et. al. As you knew, in my letter of February 3 I had suggested that you recuse yourself from matters pertaining to Madison Guaranty Savings and Loan.

Now, however, based upon your meeting with White House officials on this subject, presumably never [illegible] [illegible] letter, your resignation from all responsibilities at the RTC appears to be the only ethical option in order.

Sincerely,

James A. Leach
Ranking Member

Enclosure

HENRY B. GONZALEZ, TEXAS, CHAIRMAN
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(202) 225-4247

March 1, 1994

Mr. Bernard Nussbaum
Counsel to the President
The White House
Washington, D.C. 20500

Mr. Stephen Potts
Director
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Ms. Jean Hanson
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Room 3000
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Mr. Art Kusinski
Chief Ethics Officer
Resolution Trust Corporation
801- 17th Street, N.W.
Washington, D.C. 20434

Dear Messrs. and Madam:

On February 3, 1994 I wrote to the Interim CEO of the Resolution Trust Corporation (RTC), Mr. Roger Altman, asking that he seek appropriate counsel as to whether he should recuse himself from matters regarding Madison Guaranty Savings and Loan. As I noted in my February 3 letter to Mr. Altman: "...it would appear ethically questionable for a political appointee of the Department of Treasury to make decisions for an independent federal agency when the President may be implicated in enforcement and civil actions."

On February 23 I received a lengthy response to my letter which ended with the following sentence: "I trust this letter fully addresses your concerns" [see attached letters]. Regrettably, the letter did not fully address the concerns expressed in my letter of February 3. Moreover, it would appear that the concerns raised in my letter were confirmed when Mr. Altman testified last week before the Senate Banking Committee that he had entered discussions with the White House on matters affecting the President's potential personal liabilities.

While it is dubiously credible to think Mr. Altman would have gone to the White House to discuss only the statute of limitations, in that a mere memo would have sufficed, it bears noting again the irony that it was Mr. Altman who on May 4, 1993, strongly recommended by letter to the Chairman of the House Banking Committee that the statute of limitations for civil lawsuits against S&L wrongdoers not be extended.

Mr. Altman's meeting with White House staff concerning the RTC's actions in the Madison case is an ethical umbrage. Even though Mr. Altman has now decided it proper to recuse himself from the Madison case, the issue at hand is whether his conduct violated federal ethics guidelines or strictures, as promulgated by the RTC. These guidelines are listed under 12 CFR § 1605.7 and include the following:

> "No employee shall engage in any action, which might result in, or create the appearance of ...
>
> (b) giving preferential treatment to any person;...
>
> (d) losing complete independence or impartiality;
>
> (e) making an RTC decision outside official channels; or,
>
> (f) adversely affecting the public's confidence in the integrity of the RTC."

Also, 12 CFR § 1605.10 states that an RTC "employee may not, directly, or indirectly, use or allow the use of information which is obtained as a result of his or her RTC employment but which is not available to the general public in order to engage in any financial transaction or to further a private interest."

In addition, another issue appears to be an abuse of the spirit of 5 U.S.C 3348. In a technical sense, this statute allows the President to name a temporary agency head to fill a vacancy until a nominee is confirmed by the Senate. In the event a nominee is rejected by the senate or his/her name is withdrawn, 5 U.S.C. 3348 provides that the vacancy may be filled for not more than 120-days by an individual designated by the President.

In the case of Mr. Altman's appointment as interim CEO of the RTC, we have a situation where a political appointee of the Treasury Department has served as the head of an independent agency for approximately 13 months. To some, this circumstance leaves the impression that Mr. Altman's term of office might have been intended to coincide with the running of the statute of limitations for civil lawsuits which could affect the White House.

Now that the statute of limitations has been extended, a skeptic might wonder if further legal machinations will occur as a means of maintaining Mr. Altman's tenure as interim CEO of the RTC. After all, no nominee to head the RTC has been formally presented to the Senate since Mr. Tate withdrew his name from consideration on November 30, when he complained of gross mismanagement at the RTC.

It is my judgement that the RTC has had its independence compromised and that it is no longer sufficient for Mr. Altman to recuse himself from the Madison case. It is all too apparent that his shadow looms large at the agency and that his immediate resignation from all responsibilities at the RTC would appear to be the only ethical option at this time.

In addition, just as one party should not have requested the meeting, the other party should not have accepted it. In this regard, I hereby request a review of whether White House officials, Bernard Nussbaum, Margaret Williams, and Harold Ickes, violated any ethical guidelines. Here I would call your attention to the following White House guidelines:

3 CFR § 100.735-4 General standards of conduct.

> "(c) In all circumstances employees shall conduct themselves so as to exemplify the highest standards of integrity. An employee shall avoid any action, whether or not specifically prohibited by this subpart, which might result in, or create the appearance of:
>
> (1) Using public office for private gain;
>
> (2) Giving preferential treatment to any person;
>
> (3) Impeding Government efficiency or economy;
>
> (4) Losing complete independence or impartiality;
>
> (5) Making a Government decision outside official channels; or
>
> (6) Affecting adversely the confidence of the public in the integrity of the Government."

3 CFR § 100.735-8 Conflicts of interest.

Page 4
March 1, 1994

> "(a) A conflict of interest may exist whenever an employee has a substantial or private interest in a matter which involves his duties and responsibilities as an employee. The maintenance of public confidence in Government clearly demands that an employee take no action which would constitute the use of his official position to advance his personal or private interest. It is equally important that each employee avoid becoming involved in situations which present the possibility, or even the appearance, that his official position might be used to his private advantage."

3 CFR § 100.735-21 General conduct prejudicial to the Government.

> "An employee shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government."

With regard to the second of the above citations, it would appear self-apparent that "personal or private interest" would apply to issues of individual job security or promotion. In addition, with regard to the third, the adjective "dishonest" would presumably apply to the issuance of statements of fact that prove untrue. Here, I bring to your attention, Mr. Nussbaum's February 18, 1994 letter to Reps. Lightfoot, Wolf, and Istook. I would also ask that the possibility [illegible] had the effect of being "prejudicial" to the government's case in attempts to recover taxpayer losses related to the failure of Madison Guaranty.

I would specifically request that the Office of Government Ethics and the Chief Ethics Officer of the White House, which I understand to be Mr. Nussbaum or his designee, formally review and provide me with a response as to whether the meeting between the three White House officials and Mr. Altman violated any guidelines of government [illegible], or law. In particular, there is an [illegible] public officials dealt with the private matters of the President. In this regard, I would hereby request a list of any individuals who participated or attended at any point in the discussions and from each any notes or recordings of the meeting or meetings at the White House or elsewhere on this matter.

Please provide a full response to the issues raised in this letter regarding the White House as well as Mr. Altman by Monday, March 21, 1994. Thank you for your time and consideration of this matter.

Sincerely,

James A. Leach

James A. Leach
Ranking Member

cc: Mr. Roger Altman
Interim CEO
Resolution Trust Corporation

DONALD W. RIEGLE, JR., MICHIGAN, CHAIRMAN

PAUL S. SARBANES, MARYLAND
CHRISTOPHER J. DODD, CONNECTICUT
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ROBERT F. BENNETT, UTAH
WILLIAM V. ROTH, JR., DELAWARE
PETE V. DOMENICI, NEW MEXICO

STEVEN B. HARRIS, STAFF DIRECTOR AND CHIEF COUNSEL
HOWARD A. MENELL, REPUBLICAN STAFF DIRECTOR

United States Senate
COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS
WASHINGTON, DC 20510-6075

March 2, 1994

Mr. Roger Altman
Interim Chief Executive Officer
Resolution Trust Corporation
801 17th Street, N.W.
Washington, D.C. 20434

RECEIVED
MAR 9 1994
OFFICE OF GOVERNMENTAL RELATIONS
RTC

Dear Mr. Altman:

During the RTC Oversight Board Hearing last Thursday, [illegible] assured the Committee that the RTC Inspector General would be asked to initiate a review of the RTC's Office of Contractor Oversight and Surveillence's Conflict-of-Interest Report on the Rose Law Firm to determine whether the RTC's conflict-of-interest rules and procedures were violated, and, if so, what action is appropriate.

[illegible] from any further involvement in the [illegible] matter. Please advise me of whether [illegible] Inspector General was made prior to your recusal. In addition, please provide the [illegible] of the RTC official to whom further inquiries pertaining to Madison Guaranty may be forwarded.

I note, for your information, that [illegible], the acting Chair of the FDIC, has provided me with a copy of the requested referrals to the FDIC Inspector General. I have not received evidence of [illegible]. I am concerned that you may interpret your recusal as preventing or discharging the RTC from carrying-through with the assurances provided the Banking Committee.

Thank you in advance for your assistance.

Sincerely,

Alfonse D'Amato

Alfonse M. D'Amato
United States Senator

12996

DONALD W. RIEGLE, JR., MICHIGAN, CHAIRMAN

PAUL S. SARBANES, MARYLAND
CHRISTOPHER J. DODD, CONNECTICUT
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RICHARD C. SHELBY, ALABAMA
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RICHARD H. BRYAN, NEVADA
BARBARA BOXER, CALIFORNIA
BEN NIGHTHORSE CAMPBELL, COLORADO
CAROL MOSELEY-BRAUN, ILLINOIS
PATTY MURRAY, WASHINGTON

ALFONSE M. D'AMATO, NEW YORK
PHIL GRAMM, TEXAS
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WILLIAM V. ROTH, JR., DELAWARE
PETE V. DOMENICI, NEW MEXICO

STEVEN B. HARRIS, STAFF DIRECTOR AND CHIEF COUNSEL
HOWARD A. MENELL, REPUBLICAN STAFF DIRECTOR

United States Senate
COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS
WASHINGTON, DC 20510-6075

March 6, 1994

RECEIVED
MAR 10 1994
OFFICE OF GOVERNMENTAL RELATIONS
RTC

Mr. Roger Altman
Interim Chief Executive Officer
Resolution Trust Corporation
801 17th Street, N.W.
Washington, D.C. 20434

Dear Mr. Altman:

During the recent RTC Oversight Board Hearing, you made some startling disclosures about a "heads-up" briefing that you and Treasury General Counsel Jean Hanson gave top White House insiders. Your testimony triggered another disclosure about two earlier clandestine White House meetings. The list of participants in these meetings includes many top Administration figures and political operatives, including White House Counsel Bernard Nussbaum and Ms. Hanson.

Ms. Hanson has been described as one of "Treasury's top political team." In light of her prominent behind-the-scenes role in the handling of the Madison affair, and her role at the Department of Treasury, I would like to know whether Ms. Hanson was present at the RTC Oversight Board hearing on February 24th. As the top legal advisor to the Secretary of Treasury and the Department's chief law officer, it would make sense for her to attend a hearing where people she advises--namely, Secretary Bentsen and yourself--were testifying.

If [illegible] attend, why did she did not come forward and brief the Committee members, and witnesses, including yourself, about these other questionable White House meetings in which she participated? The American people and Congress have a right to demand and expect from high-ranking administration figures such candor and honesty. In addition, did she ever brief you on these earlier meetings? If she did not brief you about these meetings [illegible] in her duties?

Thank you in advance for your assistance.

Sincerely,

Alfonse D'Amato

Alfonse M. D'Amato
United States Senate

ATTACHMENT A

[illegible]

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
ONE HUNDRED THIRD CONGRESS
2129 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6050

[illegible]
BERNARD SANDERS, VERMONT
(202) 225-4247

March 8, 1994

John E. Ryan
Deputy Chief Executive Officer
Resolution Trust Corporation
801 - 17th Street, N.W.
Washington, D.C. 20434

Dear Mr. Ryan:

I am writing in reference to the House Banking Committee's statutorily ~~mandated,~~ semi-annual RTC Oversight Hearings ~~which are scheduled for~~ [illegible] As you know, a major area of oversight at these hearings will be the failure and resolution of Madison [illegible] Savings and Loan, Little Rock, Arkansas. Madison was taken over by federal regulators in March of 1989 and resolved by the Resolution Trust Corporation (RTC) in November, 1990.

As ranking Member of the House Banking Committee, I request that the RTC provide the Committee with [illegible] documents related to madison [illegible] the Committee will need access to this material to prepare for the upcoming hearings and to perform their ongoing oversight responsibilities. (As I am sure you are aware, documents provided to the Ranking Member are available to the Committee as a whole under the Committee rules.) The documents requested would include, but not be limited to, administrative files, examination reports, interoffice memorandum, notes and minutes of meetings (including telephonic meetings), correspondence, electronic mail, and agreements the RTC entered into with private sector contractors during the resolution of Madison. In addition to documents in possession at RTC-Washington, I request access to all documents related to Madison held at RTC field offices. Furthermore, please provide the names and titles of all RTC employees involved with the disposition of Madison.

Please have your staff contact Joe Seidel at (202)226-3241 or Mike McGarry at (202)225-[illegible] to discuss arrangements to review the aforementioned documents as soon as possible. As you are aware, I have previously requested access to these documents for use in performing other

Mr. Ryan
Page Two
March 8, 1994

Committee functions. My final letter concerning that request, was forwarded yesterday, March 7, 1994. If the agency decides to comply with that request, we will, of course, consider this request satisfied as well.

I appreciate your assistance and look forward to your cooperation.

Sincerely,

James A. Leach
Ranking Member

JAL:gls

cc: Henry B. Gonzalez
Chairman
Committee on Banking Finance
and Urban Affairs
2413 Rayburn House Office Building
Washington, DC 20515

03/08/94 15:10 WALL ST JOURNAL 2028628800 → 202 416 1409 [illegible]

03/08/94 12:25 ☎202 [illegible] JIM LEACH ☎002/010

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
ONE HUNDRED THIRD CONGRESS
2129 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6050

CHARLES E. SCHUMER [illegible]
BARNEY FRANK, MASSACHUSETTS
PAUL E. KANJORSKI, PENNSYLVANIA
JOSEPH P. KENNEDY II, MASSACHUSETTS
FLOYD H. FLAKE, NEW YORK
KWEISI MFUME, MARYLAND
MAXINE WATERS, CALIFORNIA
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MAURICE HINCHEY, NEW YORK
CALVIN M. DOOLEY, CALIFORNIA
RON KLINK, PENNSYLVANIA
ERIC FINGERHUT, OHIO

[illegible] IOWA
[illegible] WYOMING
[illegible] TEXAS
[illegible] OHIO
[illegible] GEORGIA
[illegible] MICHIGAN
[illegible] NEW YORK
[illegible] MINNESOTA
[illegible] ALABAMA
[illegible] CALIFORNIA
[illegible] DELAWARE
[illegible] NEW YORK

BERNARD SANDERS, VERMONT

March 8, 1994

The Honorable Henry B. Gonzalez
Chairman
Committee on Banking, Finance and
Urban Affairs
2413 Rayburn House Office Building
Washington, D.C. 20515

Dear Henry:

In preparation for the upcoming semi-annual oversight hearing of the Thrift Depositor Protection Oversight Board, required by statute, we would request that the following witnesses be asked to testify at the forthcoming Oversight Board hearing pursuant to the committee rules.

1. Mr. James McDougal
   c/o Mr. Sam Heuer, Esq.
   425 West Capital
   Suite 3827
   Little Rock, Arkansas 72201

2. Ms. Susan McDougal
   c/o Mr. Bobby McDaniel, Esq.
   1405 Post Oak Cove
   Jonesboro, Arkansas 72401

3. Mr. David Hale
   c/o Mr. Randy Coleman, Esq.
   Skokos & Coleman
   3200 TCBY Tower
   425 West Capital Avenue
   Little Rock, Arkansas 72201-3439

4. Mr. Sheffield Nelson, Esq.
   Jack, Lyons & Jones
   3400 TCBY Tower
   425 West Capital Avenue
   Little Rock, Arkansas 72201

5. Ms. April Breslaw
   Resolution Trust Corporation

The Honorable Henry B. Gonzalez
Page 2
March 8, 1994

15th and Pennsylvania Avenue, N.W.
Washington, D.C. 20220

6. James Dudine
Resolution Trust Corporation
Resolution Trust Corporation
15th and Pennsylvania Avenue, N.W.
Washington, D.C. 20220

7. Mr. Lee Ausen
Supervisory Investigator
Criminal Investigator
Resolution Trust Corporation
4900 Main Street, Suite 200
Kansas City, Missouri 64112

8. Mr. L. Richard Iorio
Field Investigative Officer
Resolution Trust Corporation
4900 Main Street, Suite 200
Kansas City, Missouri 64112

9. Ms. Jean Lewis
Investigator
Resolution Trust Corporation
4900 Main Street, Suite 200
Kansas City, Missouri 64112

10. Mr. Mike Caron
Senior Investigator
Resolution Trust Corporation
4900 Main Street, Suite 200
Kansas City, Missouri 64112

11. Mr. Donald S. Mackay
Trial Attorney
Fraud Section, Criminal Division
U.S. Department of Justice
P.O. Box 28188, Central Station
Washington, D.C. 20038

12. Ms. Paula Casey
United States Attorney
U.S. Attorney's Office
5th Floor, TCBY Building
425 West Capital Avenue
Little Rock, Arkansas 72201

The Honorable Henry B. Gonzalez
Page 3
March 3, 1994

13. Mr. Leslie Patten
Patten, McCarthy & Associates, Inc.
370- 17th Street, Suite 415C
Denver, Colorado 80202

14. Mr. James Lyons, Esq.
1200- 13th Street, Suite 3000
Denver, Colorado 80202

15. Mr. Stanely Tate
1175 N.E. 125th Street
North Miami Beach, Florida 33161

16. Mr. William Roelle
Federal Deposit Insurance Corporation
550- 17th Street, N.W.
Washington, D.C. 20429

17. Mr. Mack McLarty
Chief of Staff
The White House
Washington, D.C. 20500

18. Mr. Bernard Nussbaum
White House Counsel
The White House
Washington, D.C. 20500

19. Mr. Harold Ickes
Deputy Chief of Staff
The White House
Washington, D.C. 20500

20. Ms. Margaret Williams
Chief of Staff
Office of the First Lady
The White House
Washington, D.C. 20500

21. Mr. Mark Gearan
Communications Director
The White House
Washington, D.C. 20500

22. Mr. Bruce Lindsey
Senior Advisor to the President
The White House
Washington, D.C. 20500

The Honorable Henry B. Gonzalez
Page 4
March 8, 1994

23. Ms. Lisa Caputo
Press Secretary
Office of the First Lady
The White House
Washington, D.C. 20500

24. Ms. Jean Hanson
General Counsel
Department of the Treasury
Room 3000
Washington, D.C. 20220

25. Mr. Josh Steiner
Chief of Staff
Department of the Treasury
15th and Pennsylvania Avenue, N.W.
Washington, D.C. 20220

26. Mr. Jack DeVore
c\o Department of the Treasury
15th and Pennsylvania Avenue, N.W.
Washington, D.C. 20220

27. Ms. Beverly Bassett-Schaffer, Esq.

Current Address:

Wright, Lindsey & Jennings
101 West Mountain
Suite 206
Fayetteville, Arkansas 72701

Address as of March 15, 1994:

Wright, Lindsay & Jennings
101 West Mountain
Suite 206
Fayetteville, Arkansas 72701

28. Mr. Dan Lasater
c\o Phoenix Mortgage
301 Louisiana Street
Little Rock, Arkansas 72201
(Must Send Via Registered Mail)

29. Mr. Greg Young
10 Cimarron Circle
Little Rock, Arkansas 72212

30. Mr. Don Denton
#39 Robinwood
Little Rock, AR 72207

31. Ms. Lisa Aunspaugh
* Unknown St.
Little Rock, AR

32. Mr. Erskine Bowles
Administrator
Small Business Administration
409 Third Street, SW
7th Floor
Washington, DC 20416

33. Mr. Charles E. James
2216 Black River Road
Little Rock, AR 72116

34. Ms. Sue Strayhorn
* Street Address Unknown
Little Rock, Arkansas

35. Ms. Ellen Kulka
~~General Counsel~~
Resolution Trust Corp.
801- 17th Street, N.W.
Washington, D.C. 20434

36. Mr. Jeremy Hedges
c/o Mr. Dean Overstreet, Esq.
Dover and Dixon
425 West Capitol Street
Suite 3700
Little Rock, Arkansas 72201

37. Mr. Clayton Lindsey
c/o The Rose Law Firm
120 East Fourth Street
Little Rock, AR 72201

38. Ms. Ricki Stacy
c/o The Rose Law Firm
120 East Fourth Street
Little Rock, Arkansas 72201

39. Mr. Roger Altman, Interim Chief Executive Officer of the Resolution Trust Corporation, accompanied by all documents related to Madison Guaranty Savings and Loan and its subsidiaries. Such documents would include, but not be limited to, administrative files, examination reports, interoffice memorandum, notes and minutes of meetings (including telephonic meetings), correspondence, electronic mail, and agreements the RTC entered into with private sector contractors during the resolution of Madison. In addition to documents in possession at RTC-Washington, all documents related to Madison held at RTC field offices should be included.

40. Mr. Jonathan Fiechter, Acting Director of the Office of Thrift Supervision, accompanied by all documents related to Madison Guaranty Savings and Loan and its subsidiaries. Such documents would include, but not be limited to, administrative files, examination reports, interoffice memorandum, notes and minutes of meetings (including telephonic meetings), correspondence, electronic mail. In addition to documents in

The Honorable Henry B. Gonzalez
Page 6
March 8, 1994

possession at OTS-Washington, all documents related to Madison held at OTS field offices should be included.

As has been the practice at past Banking Committee hearings, we will expect to ask the witnesses if they have discussed, cleared, or otherwise corroborated their testimony with anyone from within the Administration or their respective agency.

Also, we are doubtful that certain of the witnesses listed above will voluntarily appear before the Committee. With this in mind, we would ask that letters of invitation go out immediately so that if anyone turns down the Committee's invitation to testify, the Committee will have ample opportunity to consider whether the issuance of subpoenas would be appropriate.

In addition, because of the ongoing revelations about discussions that have occurred between the RTC, Treasury officials and the White House concerning Madison Guaranty, the Minority reserves the right to request additional witnesses up to and until the conclusion of the hearing(s).

Sincerely,

Bill McCollum

James A. Leach
Bill McCollum

Marge Roukema
Doug Bereuter

Thomas Ridge
Toby Roth

Alfred McCandless
Richard Baker

Jim Nussle
Craig Thomas

The Honorable Henry B. Gonzalez
Page 7
March 8, 1994

Sam Johnson

Deborah Pryce

Sam Johnson

John Linder

Joe Knollenberg

Rod Grams

Rod Grams

Rick Lazio

Rick Lazio

Mike Huffington

Spencer Bachus

Mike Castle

Michael Castle

Peter King

12945

HENRY B. GONZALEZ, TEXAS, CHAIRMAN

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MAURICE HINCHEY, NEW YORK
CALVIN M. DOOLEY, CALIFORNIA
RON KLINK, PENNSYLVANIA
ERIC FINGERHUT, OHIO

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
ONE HUNDRED THIRD CONGRESS
2129 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6050

JAMES A. LEACH, IOWA
BILL MCCOLLUM, FLORIDA
MARGE ROUKEMA, NEW JERSEY
DOUG BEREUTER, NEBRASKA
THOMAS RIDGE, PENNSYLVANIA
TOBY ROTH, WISCONSIN
ALFRED A. MCCANDLESS, CALIFORNIA
RICHARD H. BAKER, LOUISIANA
JIM NUSSLE, IOWA
CRAIG THOMAS, WYOMING
SAM JOHNSON, TEXAS
DEBORAH PRYCE, OHIO
JOHN LINDER, GEORGIA
JOE KNOLLENBERG, MICHIGAN
RICK LAZIO, NEW YORK
ROD GRAMS, MINNESOTA
SPENCER BACHUS III, ALABAMA
MIKE HUFFINGTON, CALIFORNIA
MICHAEL CASTLE, DELAWARE
PETER KING, NEW YORK

BERNARD SANDERS, VERMONT

(202) 225-4247

March 8, 1994

RECEIVED
MAR 8 1994
OFFICE OF GOVERNMENTAL RELATIONS
RTC

John E. Ryan
Deputy Chief Executive Officer
Resolution Trust Corporation
801 - 17th Street, N.W.
Washington, D.C. 20434

Dear Mr. Ryan:

I am writing in reference to the House Banking Committee's statutorily mandated, semi-annual RTC Oversight Hearings which are scheduled for the end of March. As you know[redacted] Savings and [redacted]/Madison was taken over by federal regulators in March of 1989 and resolved by the Resolution Trust Corporation (RTC) in November, 1990.

As ranking Member of the House Banking Committee, I [redacted] provide the [redacted] Members of the Committee will need access to this material to prepare for the upcoming hearings and to perform their ongoing oversight responsibilities. (As I am sure you are aware, documents provided to the Ranking Member are available to the Committee as a whole under the Committee rules.) The [redacted] examination [redacted] meetings), [redacted] private sector [redacted] at RTC-[redacted] field offices. [redacted] involved with the [redacted]

Please have your staff contact Joe Seidel at (202)226-3241 or Mike McGarry at (202)225-2258 to discuss arrangements to review the aforementioned documents as soon as possible. As you are aware, I have previously requested access to these documents for use in performing other

Committee functions. My final letter concerning that request, was forwarded yesterday, March 7, 1994. If the agency decides to comply with that request, we will, of course, consider this request satisfied as well.

I appreciate your assistance and look forward to your cooperation.

Sincerely,

James A. Leach
Ranking Member

JAL:jls

cc: Henry B. Gonzalez
Chairman
Committee on Banking Finance
and Urban Affairs
2413 Rayburn House Office Building
Washington, DC 20515

①

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
ONE HUNDRED THIRD CONGRESS
2129 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6050

March 10, 1994

Mr. Robert B. Fiske, Jr.
Independent Counsel
Office of the Independent Counsel
Two Financial Centre, Suite 134
10825 Financial Centre Parkway
Little Rock, AR [illegible]

Dear Mr. Fiske:

I am writing to make clear to you that, as Ranking Member of the Committee of jurisdiction over an issue which you are probing, I am fully prepared to recognize the legitimate concerns, as indicated below, of your office. I believe, however, that you have an equal obligation not to interfere with the legitimate oversight responsibilities of Congress.

There are, broadly, three things a prosecuting attorney can credibly request of Congress, which the Congress should take into consideration as it structures approaches to its responsibilities:

1. Where possible, any prosecuting attorney should be given an opportunity to put witnesses under oath first.

2. If possible, Congress should avoid giving immunity to key witnesses.

3. Where appropriate, prosecuting strategies should not be revealed.

Likewise, I hereby request that the special counsel do nothing [redacted] a chilling effect on our congressional [redacted] oversight, particularly with regard to witnesses and strategy you may gather from the material we have supplied you; 2) intervene or tilt the checks and balances between the Legislative and Executive Branches; or 3) pursue a course that tilts towards choosing sides in what is a legitimate difference between America's two great political parties.

[redacted] that a week of [illegible] hearings could be considered if you suggest

②

time is inadequate for you to interview all on our witness list. But I would stress the minority does not control the hearing process. Given the manner in which the majority party has failed for over four months to accede to a restrained request for a hearing, we have no choice but to latch on to the one modest power we have: an insistence, that however uncomfortable, the majority comply with the law and hold a statutorily required oversight hearing on the RTC, with a date specific in the next four weeks.

With regard to immunity, as I indicated in my March 7 letter, the minority has no intent, nor power to offer such.

With regard to prosecutorial strategies, we would of course not intend to reveal such, even if we knew what they were.

As for the competitive aspect of jurisdictions, I would bring to your attention the following passage from Mr. Walsh's recent report on the Iran-Contra probe:

> When a conflict between the oversight and prosecutorial roles develops -- as plainly occurred in the Iran/contra affair -- the law is clear that it is Congress that must prevail. This is no more than a recognition of the high political importance of Congress's responsibility. It also is the appropriate place to strike the balance, as a resolution of this conflict calls for the exercise of a seasoned political judgment that must take a broad view of the national interest.

It is in this context that I must confess to more than a little [redacted] about your assertion that you have a "strong concern" about "any hearing" [redacted] belief that Con[redacted] would pose a severe risk to the integrity [redacted]. I reiterate this concern in light of the historical irony that it was Senator Ervin's committee that revealed the existence of the Watergate tapes and that it was the recent Senate [illegible] that revealed improper contacts between Executive branch agencies and the White House. [redacted] almost [redacted] knowledge and perspective that is [redacted] to embarrass [redacted] Reagan that [redacted] immunity to certain wi[redacted].

Given the circumstance, unlike most of the past several decades where the majority party in Congress was opposite that of the White House, I [redacted] Congress [redacted] setting a chilling precedent for Congressional [redacted] for the [redacted] party which [redacted] of Congress to delay, [redacted] or avoid its

③

Constitutional responsibilities.

In this context, I would bring to your attention the March 9 comments of the Speaker of the House, Thomas S. Foley: "I don't see any reasons for hearings. I think we ought to pay special attention to the counsel of the special counsel, Mr. Fiske."

I would also bring to your attention the following exchange between Mr. Livingston of Louisiana and the Secretary of the Treasury before a House Appropriations Subcommittee this afternoon. Mr. Livingston asked if Secretary Bentsen had been apprised in advance of Roger Altman's meeting at the White House on the failure of Madison Guaranty. The Secretary responded: "On advice of Mr. Fiske, the special counsel, I refuse to answer."

It is insufficient to simply state, as you did in your March 7 letter to me, that Congress has a legitimate oversight role and then to advance a public strategy that undercuts the capacity of Congress to uphold its responsibilities and the minority party to hold the majority party accountable to the law as well as to the appropriate legislative and oversight processes.

Here it should be stressed that not only does the Congress have constitutionally-mandated oversight responsibilities, but that traditionally in all western democracies it is the responsibility of the party out of power to hold the party in power accountable for breaches of the public trust. In this regard, any special counsel has a particular obligation to ensure absolute and complete impartiality of the process if the results of that counsel's inquiry are to be credibly received by the public.

It may be standard operating procedure for all prosecutors to be doubtful of intervention by the Congress. But it is not standard operating procedure to bias or tilt in any way the American political process or to make premature public judgements about the White House being "very responsive and cooperative" to a probe when there are indications to the contrary. I am particularly concerned that officials of the Kansas City RTC office are being gagged and possibly coerced by the Washington RTC office (see attached confidential memo).

It is also unprecedented presumption for a [redacted], as reported today in the Washington Post: "[redacted]ings."

With due respect for the difficult task assigned to you, please understand that Members of Congress have obligations as well

Mr. Robert B. Fiske
Page 4
March 10, 1994

In this regard, based on the material supplied to you in the past and the enclosed memorandum, I request that you not reveal the strategy of the minority or put any stumbling blocks in the way of our efforts to seek public accountability.

I have known very few issues where public accountability is more important. This is after all an issue of public ethics as well as public law. Accordingly, as you vigorously seek documents, I would stress again my apprehension that at the end of the process the White House can be expected to seek to seal the vast array of documents related to your inquiry. Here the constitutionally differentiated distinction between a Justice Department inquiry seeking criminal and civil accountability and Congressional oversight which often involves the question of public disclosure is substantial.

But the differentiated roles of Congress and a special counsel does not mean, as you have implied, that the two are incompatible. The two are generally complementary. Indeed, one could credibly suggest that any attempt by a prosecuting attorney to constrain Congress beyond the standards indicated above is counterproductive. Constraining a Congressional inquiry has the effect of reducing knowledge, thus reducing prosecutorial discretion.

As I indicated in our first conversation, one of the most extraordinary aspects of this issue is the question of how to bring it to a resolution. I am prepared to assist in lending credibility to the conclusions ultimately drawn by the special counsel if the results are, indeed, credible. [redacted] as firmly as I can, in our kind of democracy [redacted] is imperative and the role of Congressional hearings in addition to all other legislative purposes is one of establishing a tangible accountability in open format so that the American people have confidence that government of, by and for the people is one of openness and fair process.

One of the understandably important aspects of criminal investigations from the prosecutorial standpoint is confidentiality. One of the understandably important aspects of democracy is openness. Both must be respected to the maximum degree possible and neither should or has to jeopardize the other.

Sincerely,

James A. Leach
Ranking Minority Member

Attachment

ATTACHMENT B

TATIVES
BAN AFFAIRS
ONE HUNDRED THIRD CONGRESS
2129 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6050

March 10, 1994

John E. Ryan
Deputy Chief Executive Officer
Resolution Trust Corporation
801 17th Street, NW
Washington, D.C. 20434

Dear Mr. Ryan:

You have recently received letters from Congressman Jim Leach requesting access to all documents you possess concerning Madison Guaranty Savings and Loan and its subsidiaries. The March 8, 1994 letter states that, "Members of the Committee will need access to this material to prepare for the upcoming [RTC oversight] hearings and to perform their ongoing oversight responsibilities."

This letter is to [redacted] Mr. Leach's requests do not constitute a Rule X or Rule XI investigation under the House Rules. A hearing does not provide the basis for a member of Congress to obtain documents to which he or she is not otherwise entitled. I will request any information needed by the Committee in order to prepare for any Thrift Depositor Protection Board oversight hearings pursuant to section 21A(k)(6) of the FHLB Act and will make it available to members of the Committee, as appropriate.

I trust that you will give Congressman Leach's requests the consideration they merit and extend to him the same courtesies you would extend to any member of Congress.

Sincerely,

Henry Gonzalez

Henry B. Gonzalez
Chairman

SENT BY: 3-11-94 : 9:14 : HOUSE BANKING -202+416+4690+++++++

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(202) 225-4247

March 10, 1994

John E. Ryan
Deputy Chief Executive Officer
Resolution Trust Corporation
801 17th Street, NW
Washington, D.C. 20434

Dear Mr. Ryan:

[redacted] concerning Madison [redacted] Savings and Loan and its subsidiaries. /The March 8, 1994 letter states that, "Members of the Committee will need access to this material to prepare for the upcoming [RTC oversight] hearings and to perform their ongoing oversight responsibilities."

This letter is to inform you that the Banking Committee is not conducting an investigation of Madison Guaranty Savings and Loan or related matters at this time./ Mr. Leach's requests do not constitute a Rule X or Rule XI investigation under the House Rules. A hearing does not provide the basis for a member of Congress to obtain documents to which he or she is [redacted] entitled. I will request any information needed by the Committee in order to prepare for any Thrift Depositor Protection Board Oversight hearings pursuant to section 21A(k)(6) of the FHLB Act and will make it available to members of the Committee, as appropriate.

I trust that you will give Congressman Leach's requests the consideration they merit and extend to him the same courtesies you would extend to any member of Congress.

Sincerely,
Henry Gonzalez
Henry B. Gonzalez
Chairman

RT-)62
cc: Mr. Ryan
Standard Distribution
Mr. Adair
Ms. Kulka
✓Mr. Knight
Ms. Hinton
Ms. Kauper
Ms. Kruse
OGR Reps & Staff

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

March 11, 1994

Honorable Alfonse M. D'Amato
Ranking Minority Member
Committee on Banking, Housing,
and Urban Affairs
United States Senate
Washington, D.C. 20510

Dear Senator D'Amato:

Thank you for your letter of March 2 concerning Interim CEO Roger C. Altman's assurance at the Senate Banking Committee hearing held on February 24 that he would request the RTC Inspector General to initiate a review of the report dated [redacted] Surveillance (OCOS) on the Rose Law Firm.

[redacted] he has delegated all of his [redacted] any matter connected [redacted] and Loan Association to me. As a result of this delegation of authority, I [redacted] memorandum to Mr. [redacted] General, requesting the investigation of the OCOS report.

In the future, you should address any questions you may have on matters concerning or relating to Madison Guaranty to me.

We hope this information is helpful to you. Please let me know if we can be of further assistance.

Sincerely,

John E. Ryan
Deputy CEO

Enclosures

801 17th Street, N.W. Washington, D.C. 20434

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

March 2, 1994

MEMORANDUM TO: John Adair
Inspector General

FROM: John E. Ryan
Deputy Chief Executive Officer

SUBJECT: Investigation of Report Dated Feb. 8, 1994 of the Office of Contact Oversight and Surveillance titled Rose Law Firm RTC/OCOS-T94002-WA

As you know, Interim CEO Roger Altman, in his appearance at the semi-annual hearing on February 24, 1994 of the Resolution Trust Corporation/Thrift Depositor Oversight Board conducted by the Senate Committee on Banking, Housing and Urban Affairs, said that he would request that the RTC Inspector General review the report dated Feb. 8, 1994 of the Office of Contract Oversight and Surveillance titled Ros[redacted]WA (copy attached). Since that date, Mr. [redacted] and has delegated all of his authority and all of his responsibilities concerning any matter connected to or arising out of Madison Guaranty Savings and Loan Association to me. Therefore, I [redacted] conduct an investigati[redacted] operating procedures, of [redacted].

Furthermore, I am requesting that you also audit fees paid to the Rose Law Firm by the RTC on any matter, or by the FDIC on any matter where the FDIC retained the Rose Law Firm, (i) as managing agent for the FSLIC, or (ii) as the legal arm of the RTC before this corporation maintained its own legal division. Please direct your report to the General Counsel, Ellen B. Kulka.

Attachment

cc: Kulka

13005

HENRY B. GONZALEZ, TEXAS, CHAIRMAN
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(202) 225-4247

March 11, 1994

RECEIVED
MAR 1 1 1994
OFFICE OF GOVERNMENTAL RELATIONS
RTC

Mr. John Ryan
Deputy Chief Executive Officer
Resolution Trust Corporation
15th and Pennsylvania Avenue, N.W.
Washington, D.C. 20330

Dear Mr. Ryan:

In [redacted] Treasury and White House o[redacted] Madison Guaranty, [redacted] have publicly stated that Congressional Republicans and Democrats, in the House and the Senate, received the same briefing as that which was provided [redacted] comments are interesting [redacted] Banking Committee, [redacted](s).

[redacted] as to the Democrat and Republican Members of the House and the [redacted] received the [redacted] the White House [redacted] Madison Guaranty. [redacted] such [redacted] officials who [redacted] meetings, and the substantive content of the [redacted]

Please provide a response by March 21, 1994. Thank you for your prompt attention to this matter.

Sincerely,

JAMES A. LEACH
Ranking Member

RT-1^ 43
RT-1. 45
cc: Mr. Ryan
Standard Distribution
Mr. Adair
Ms. Kulka
Mr. Binkley
Mr. Collishaw
Ms. Hinton
Ms. Kauper
OGR Reps & Staff

RTC
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Resolving The Crisis
Restoring The Confidence

March 11, 1994

Honorable Jim Leach
Ranking Minority Member
Committee on Banking, Finance
and Urban Affairs
House of Representatives
Washington, D.C. 20515

Dear Mr. Leach:

I am writing in response to your letters dated March 7 and 8, 1994, reiterating your request that the RTC provide certain documents and records as part of your investigation of the failure of Madison Guaranty Savings and Loan. Your March 7th letter was in response to our earlier letter of February 7, 1994, in which we indicated that unfortunately the RTC could afford you no greater access than would be available to the general public under the Freedom of Information Act. I note that the March 8th letter requested that some of the same information previously requested be supplied to you in conjunction with the up-coming semiannual RTC Oversight Board Hearings.

Regarding your letter of March 8, 1994, I have just received the enclosed letter dated March 10, 1994, from Chairman Gonzalez, indicating that the Committee is not conducting an investigative hearing. Therefore, the records request was made in your individual capacity as a member of Congress and not on behalf of the Committee.

We are [illegible] to [illegible] with your conclusion that an individual member of Congress has the legal right to unlimited access to any agency record, regardless of its privileged or confidential status. Consequently, we will continue to provide you with documents or portions of documents that would be available to the public. Although this may be deemed to be a final agency determination on the status of your request for access to RTC records, let me assure you that the RTC is making every effort to cooperate with you and will continue to make documents available to your staff as they have been reviewed for public disclosure. In fact more documents were sent to your staff this week.

801 17th Street, N.W. Washington, D.C. 20434

Your letter indicated you wanted to know what further recourse you had to obtain "access to this information (under the terms of the FOIA or otherwise)." A party, who has been denied access to records pursuant to the FOIA, has the right to appeal that decision within thirty days of the initial denial to the Office of the RTC's General Counsel (12 C.F.R. § 1615.7).

We hope this information is of assistance to you.

Sincerely,

John E. Ryan
Deputy CEO

Enclosure

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(202) 225-4247

March 10, 1994

John E. Ryan
Deputy Chief Executive Officer
Resolution Trust Corporation
801 17th Street, NW
Washington, D.C. 20434

Dear Mr. Ryan:

You have recently received letters from Congressman Jim Leach requesting access to all documents you possess concerning Madison Guaranty Savings and Loan and its subsidiaries. The March 8, 1994 letter states that, "Members of the Committee will need access to this material to prepare for the upcoming [RTC oversight] hearings and to perform their ongoing oversight responsibilities."

This letter is to inform you that the Banking Committee is not conducting an investigation of Madison Guaranty Savings and Loan or related matters at this time. Mr. Leach's requests do not constitute a Rule X or Rule XI investigation under the House Rules. A hearing does not provide the basis for a member of Congress to obtain documents to which he or she is not otherwise entitled. I will request any information needed by the Committee in order to prepare for any Thrift Depositor Protection Board Oversight hearings pursuant to section 21A(k)(6) of the FHLB Act and will make it available to members of the Committee, as appropriate.

I trust that you will give Congressman Leach's requests the consideration they merit and extend to him the same courtesies you would extend to any member of Congress.

Sincerely,

Henry Gonzalez

Henry B. Gonzalez
Chairman

ATTACHMENT C

[illegible]

ATIVES

FINANCE AND URBAN AFFAIRS

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2129 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6050

[illegible]

March 14, 1994

The Honorable Roger Altman
Chief Executive Officer
Resolution Trust Corporation
Member, Thrift Depositor Protection Oversight Board
801 17th Street, N.W.
Washington, D.C. 20434

Dear Mr. Altman:

You have previously been invited by letter dated March 3, 1994 to appear before the Committee on Banking, Finance and Urban Affairs for the purpose of the semiannual appearance of the Thrift Depositor Protection Oversight Board. I expect that Republican members of the Committee may use the opportunity of the Oversight Board hearing to pursue extraneous matters, including Madison Guaranty Savings and Loan. Any questions regarding Madison Guaranty Savings and Loans, matters that are the subject of pending investigations by Special Counsel Fiske or other law enforcement authorities, or other extraneous matters not specifically set forth in section 21A(k)(6) of the Federal Home Loan Bank Act or the March 3, 1994 invitation letter will not be considered pertinent at the hearing and need not be answered by you.

I was the primary sponsor of the provision to require the Oversight Board to appear on a semiannual basis so that the Committee could oversee its activities. The recent appropriation of funds to the RTC, the management reforms, and FDIC-RTC transition measures required under Public Law 103-24 clearly require the complete and full attention of the Committee in order to have a successful Oversight Board hearing. I intend to keep the hearing so focused.

I look forward to your March 24, 1994 appearance.

Sincerely,

Henry B. Gonzalez
Henry B. Gonzalez
Chairman

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BERNARD SANDERS, VERMONT

(202) 225-4247

March 18, 1994

Mr. Roger Altman
Interim Chief Executive Officer
Resolution Trust Corporation
801 17th Street, N.W.
Washington, D.C. 20434

Dear Mr. Altman:

As you may know, on March 8, 1994, I wrote the RTC requesting information for the Banking Committee's upcoming RTC oversight hearing. (attachment A) On March 11, 1994, the RTC responded and held to the position that only the Chairman of a Committee would be permitted access to agency documents. At issue in this situation is who speaks for Congress in the context of Congress' right and obligation under Article I of the Constitution to conduct oversight of the Executive Branch.

As you also likely know, [redacted], in what may be an effort to bolster the Executive's position, wrote to the RTC on March 10, 1994, to suggest that the agency deny the document request and wrote to you separately on March 14, 1994, to state that you [redacted] Madison Guaranty Savings [redacted] The Chairman's letter contains an implicit and unprecedented philosophical assertion that not only does a Chairman have the exclusive right to obtain documents from the Executive Branch, but the power to deny such documentation to other Members and the right even to deny inquiries about issues clearly germane to the subject of hearings.

So [redacted] understanding, the RTC Oversight hearing is [redacted] of law, Section 21A(k)(6) of the Federal Home Loan Bank Act (12 U.S.C. §1441a(k)(6)), and there is no provision in that law for exceptions to Congressional oversight that relate to a single state and its institutions. The U.S. Congress wrote a law applicable to all 50 states, not 49, and the oversight of our laws applies throughout this country. Just as in America no individual is above the law, no state is beyond its reach. Just as no individual is entitled to violate the law out of ignorance of it, no person, even the Chairman of a Congressional Committee, is entitled after the fact to be sole interpreter of a law's meaning or serve as a censor to another Member's inquiries. Indeed, **no Member of Congress has the right or power** to deny relevant information to another Member.

In addition to the Federal Home Loan Bank Act, the Committee's role in oversight is buttressed by the House Rules as modified under the Legislative Reorganization Act of 1970. I refer you to paragraph 2 of House Rule X providing for the Committee's "General Oversight Responsibilities" which states:

> "(b)(1) Each standing committee ... shall review and study, on a continuing basis, the application, administration, execution, and effectiveness of those laws, or parts of laws, the subject matter of which is within the jurisdiction of that committee and the organization and operation of the Federal agencies and entities having responsibilities in or for the administration and execution thereof, in order to determine whether such laws and the programs thereunder are being implemented and carried out in accordance with the intent of the congress and whether such programs should be continued, curtailed, or eliminated."

Separate procedural rules may apply to an investigative hearing, but such rules do not apply in this case. The statutorily mandated RTC hearing is an oversight hearing in accordance with Rule X. Any reliance on investigative hearing procedures to deny information to Committee Members is misplaced. Any information requests or questions by Members related in any manner to RTC operations are authorized under the Committee's oversight authority. It is also expected that in answering questions witnesses will either assert appropriate privileges or fully respond with answers to the questions (See, 2 U.S.C. §192, Sinclair v. United States, 279 U.S. 263 (1929)) and such answers shall be truthful. (See, 18 U.S.C. §1001, U.S. v. Poindexter, 951 F.2d 369 (D.C. Cir. 1991)).

Despite [illegible] Chairman's letters, the existence of a Special Counsel appoi[illegible] the [illegible] case cannot be used [illegible] rationale to avo[illegible] oversight information to Congress. In a meeting on March [illegible] from Special Counsel Fiske that he did not object to the disclosure of copies of documents to Congress, other than White House documents. Mr. Fiske also indicated that the Special Counsel would not impede in any manner Executive Branch testimony.

Moreover, the precedent of the Banking Committee is clear with respect to the relevance of specific questions on specific institutions. [redacted] oversight [illegible] questions [illegible] to individual [illegible] been asked by Committee Members, including the Chairman, and answered by witnesses. It should be noted that in fact the Committee's invitation letter of March 3, 1994, to Treasury Secretary Bentsen

Mr. Roger Altman
Page 3
March 18, 1994

for purposes of the RTC oversight hearing seeks testimony and documents related to a specific institution, Homefed Savings.

The Chairman's letters are open to an interpretation that would imply the possibility that they have been requested by the Administration to bolster its efforts to deny information to the Congress concerning Madison. If such is the case, at issue would be a collusive effort by the Majority party and the Congress to aid and abet in undermining the Executive Branch's obligation to provide information related to legitimate Congressional oversight.

You are hereby put on notice that you must address your obligations to respond to legitimate information requests and legitimate inquiries on the subject of the hearing as required by the law and the Constitution, not in conjunction with an arbitrary and capricious [illegible] to deny discussion on a subject the Executive Branch would rather not forthcomingly address? The Minority party, in sum, has a baseline request for full disclosure and a baseline assumption that officials of the U.S. government will comply with the law. It is assumed that any official appearing before the Banking Committee, or any other committee, will abide by the Code of Government Ethics for Federal employees to "Uphold the Constitution, laws, and regulations of the United States and all governments therein and never be party to their evasion." Pub. L. No. 96-303, July 3, 1980, 94 Stat. 855

Sincerely,

James A. Leach

James A. Leach
Ranking Member

cc: The Honorable John P. LaWare
The Honorable Andrew C. Hove
The Honorable Henry B. Gonzalez

HENRY B. GONZALEZ, TEXAS, CHAIRMAN

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
ONE HUNDRED THIRD CONGRESS
2129 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6050

JAMES A. LEACH, IOWA

(202) 225-4247

Gonzalez

March 21, 1994

The Honorable Thomas S. Foley
Speaker of the House
United States House of Representatives
H204 United States Capitol
Washington, DC 20515

Dear Mr. Speaker:

For months, the Republican minority has made a variety of accusations against the President and Mrs. Clinton, using an array of half-truths, old rumors, half-baked conspiracy theories and outright lies. I have never seen a more malicious campaign of character assassination than this. It is, I believe, time for Democrats to use the truth, the weapon Republicans fear most.

I recommend that the House Leadership draft and endorse a resolution calling for full hearings on the so-called Whitewater affair. It is unacceptable to permit the Republicans an occasional day of hearings that they can use to haul out one or another half-truth or launch yet another smoke bomb.

I would note that the Senate has already committed itself to hearings at an appropriate time. I would suggest that House hearings be held in a forum of broad reach -- possibly a select committee -- that can explore all the charges that have been brought, from accusations of obstruction even to the most absurd conspiracy charges. However, no hearings should be permitted to complicate or compromise the work of the Special Counsel, whose requests for restraint have only drawn contempt from the Republicans whose political aims are frustrated by anything less than a witch hunt in a circus ring.

I welcome the opportunity to set the record straight, which is possible only through a full public airing of every aspect of this matter. The good people who have been smeared have the right to clear their names, and the country deserves the chance to expose the Republican witch hunt for what it is.

Sincerely,

Henry

Henry B. Gonzalez
Chairman

20TH DISTRICT, TEXAS

2413 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-4320
202-225-3236

HOME OFFICE:
B-124 FEDERAL BUILDING
727 E. DURANGO STREET
SAN ANTONIO, TX 78206-1286
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Congreſs of the United States
House of Representatives
Washington, DC 20515-4320

COMMITTEE
BANKING, FINANCE AND URBAN AFFAIRS
CHAIRMAN

SUBCOMMITTEES
HOUSING AND COMMUNITY DEVELOPMENT
CHAIRMAN
CONSUMER CREDIT AND INSURANCE
INTERNATIONAL DEVELOPMENT, FINANCE, TRADE AND MONETARY POLICY

March 21, 1994

FILE REF:
BO4BNK
stw

The Honorable James A. Leach
2186 Rayburn HOB
Washington, D.C. 20515

Dear Colleague:

Upon my return from my District, I saw your letter, apparently delivered late Friday.

As you know, I committed to the [redacted] not [redacted] of his [redacted] names indicates you are in wilful disregard of this request, which even the Senate has honored, for you obviously are premeditatedly intending to launch into a prosecutorial or judicial adventure, which as I amply pointed out during the Neil Bush hearing the Banking Committee is not empowered to do. I am attaching a copy of the pertinent record of that hearing.

In view of your obdurate and obstinate refusal to honor the Special Counsel's request, and, in addition, your threats to disrupt, or in your words create a "donnybrook", [redacted] calmly and dispassionately comply with the statutory hearing?

Since the effective date of FIRREA we have held no fewer than seven statutory oversight hearings. At no time have you or your predecessor made such requests as you are making now. You must not be much interested in getting an accounting of the twenty five billion dollars we voted for RTC last year.

Sincerely,

Henry B. Gonzalez

Henry B. Gonzalez
Member of Congress

Enclosure

FILE

12722

United States
Office of Government Ethics
1201 New York Avenue, NW., Suite 500
Washington, DC 20005-3917

March 22, 1994

The Honorable James A. Leach
Ranking Member
Committee on Banking, Finance and Urban Affairs
House of Representatives
2129 Rayburn House Office Building
Washington, DC 20515-6050

Dear Congressman Leach:

I want to let you know what the Office of Government Ethics (OGE) is doing in response to your letter dated March 1, 1994.

Your letter asks for OGE's review and advice as to whether a meeting between three White House officials and Roger Altman, Interim Chief Executive Officer of the Resolution Trust Corporation (RTC) and Deputy Secretary of the Treasury, "violated any guidelines of government ethics, regulations, or law." Various sections of title 3 C.F.R. and title 12 C.F.R. are cited in your letter as possibly being applicable to this matter.

After receiving your letter, my staff contacted Independent Counsel Robert Fiske to request a meeting. OGE has also received a letter from Lloyd Bentsen, Secretary of the Treasury, asking for our views regarding certain actions that may have been taken by members of his staff. Because media reports had indicated that Mr. Fiske's office had issued subpoenas to certain Treasury and White House officials, we felt it was necessary to meet with Mr. Fiske and/or his representatives before proceeding in any fashion with respect to either your letter or Secretary Bentsen's letter. A copy of OGE's letter to Mr. Fiske was sent to you.

Early last week, OGE staff met with the staff from the Office of the [illegible] Counsel. At the meeting, my staff outlined OGE's role in the executive branch and discussed the steps that OGE might take in response to your letter and the letter from Secretary Bentsen. OGE agreed not to pursue any activities at this time that might jeopardize any investigation now being conducted by Mr. Fiske. OGE asked the Office of the Independent Counsel to notify us when an administrative investigation of employee conduct could proceed. We have since received a letter from that office confirming our conversation. Holding any administrative investigation in abeyance until a criminal investigation is at a stage where it will not be compromised follows the long-standing guidance of the Department of Justice (DOJ). Copies of that DOJ guidance are enclosed for your information.

In [redacted] with the Insp[redacted]ment of the Treasury and the R[redacted]. OGE is not an investigatory agency. We believe that we can effectively work with the investigators in those offices so that any information we believe relevant to issues of the application of the standards of ethical conduct can be developed and included in a report from those offices.*

We [redacted] Treasury has [redacted] Congress to investigate the matter which is the subject of your letter to OGE, and that [redacted] from the Independent Counsel not to proceed on the matter at this time. Accordingly, [redacted] the IG offices will focus on what acti[redacted] take in the future, once the Independent Counsel has notified us that we may proceed. [redacted] you with our views as to any ethics or conflicts issues that may be raised by the investigative reports.

Sincerely,

Stephen D. Potts
Director

Enclosures

cc: Lloyd Cutler
Counsel to the President

Jean Hanson
General Counsel
Department of the Treasury

[redacted]
Direc[redacted]ffice of Ethics
[redacted]ation

---

* It is important to note in this regard that some of the regulations cited in your letter were superseded on February 3, 1993, by OGE's executive branch-wide "Standards of Ethical Conduct" in 5 C.F.R. part 2635. Therefore, it will be the Standards of Ethical Conduct in 5 C.F.R. part 2635 upon which OGE will focus. The cited provision in 3 C.F.R. regarding "General conduct prejudicial to the Government" was not superseded by 5 C.F.R. part 2635 because it is derived from employee conduct regulations issued by the Office of Personnel Management in 5 C.F.R. part 735.

HENRY B. GONZALEZ, TEXAS, CHAIRMAN
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U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
ONE HUNDRED THIRD CONGRESS
2129 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6050

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PETER KING, NEW YORK

BERNARD SANDERS, VERMONT

(202) 225-4247

March 23, 1994

RECEIVED
MAR 23 1994
OFFICE OF GOVERNMENTAL RELATIONS
RTC

John E. Ryan
Deputy Chief Executive Officer
Resolution Trust Corporation
801 - 17th Street, N.W.
Washington, D.C. 20434

Dear Mr. Ryan:

As you know, the House, by an overwhelming vote of 408 to 15, passed H. Res. 394, a sense of the House of Representatives reaffirming Congress' "Constitutional obligation to conduct oversight of matters relating to the operations of the government, including matters related to any governmental investigations which may from time to time be undertaken" and establishing procedures "for appropriate Congressional oversight, including hearings on all matters related to "Madison Guaranty Savings and Loan Association ('MGS&L'), Whitewater Development Corporation and Capital Management Services Inc. ('CMS')."

In addition to the passage of H. Res. 394, I would draw your attention to the following colloquy between House Majority Leader Gephardt and Republican Leader Michel:

> Mr. MICHEL. Mr. Speaker, if I might at this time ask the distinguished Majority leader several questions to be perfectly clear here, is the Democratic leadership committed to holding the previous RTC oversight hearing that is mandated by law?
>
> Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?
>
> Mr. MICHEL. I yield to the gentleman from Missouri.
>
> Mr. GEPHARDT. Mr. Speaker, the answer is yes.
>
> Mr. MICHEL. Do we have any idea of when that might be scheduled?
>
> Mr. GEPHARDT. I would say to the gentleman that it would be scheduled as soon as practicable, in consultation with all of the people on the committee, and the chairman of the committee, and the ranking member and the Members on

both sides.

Mr. MICHEL. And it is my understanding from previous conversations that we have had that the minority will be allowed a day of witnesses as provided under rule XI, is that correct?

Mr. GEPHARDT. The gentleman is correct.

(Cong. Rec. H1810, March 22, 1994)

Both H. Res. 394 and the RTC Oversight hearings mandated by Section 21A of the Federal Home Loan Bank Act (12 U.S.C. §1441a) involve Congressional oversight under the jurisdiction of the House Banking Committee authorized by Rule X of the House Rules. As ranking Member of the House Banking Committee, [redacted]fully request that [redacted] Committee with access to all documents related to Madison and its subsidiaries in order to prepare for the upcoming hearings on the Madison/Whitewater circumstance. Members of the Committee will need access to this material to prepare for the upcoming hearings and to perform their ongoing oversight responsibilities.

The documents requested would include, but not be limited to, administrative files [redacted]randum, notes and minutes of meetings (including telephonic meetings), correspondence [redacted] entered into with p[redacted] during the resolution of Madison. In addition to documents in possession at RTC-Washington, I request a[redacted] held at RTC field offices. Furthermore, please provide the names and titles of all RTC [redacted] involved with the supervision of Madison.

It should be noted that inquiry into Madison, as well as any oth[redacted]ic institution, is germane to the RTC oversight [redacted] Concerning the provisions of FIRREA requiring semi-annual RTC oversight hearings, Senate Banking Committee Chairman Riegle, the floor manager of FIRREA, has stated:

> So we have had, now, over the years since 1989, a very long series of regular oversight hearings where we call in the officials responsible for implementing that law to find out exactly how it is working and if there is a need to change any particular part of it. Is it working the way it was designed to work? Have we corrected all the abuses? We were so concerned about that issue that, in fact, we built into that 1989 law a requirement that there has to be a hearing here in Congress every 6 months on how that cleanup effort is doing and how that law is

> being implemented. Within the text of that part of the law we went so far as to say that any institutions that failed in that time period, in the mid-1980's, that if any Senator on the committee wanted to come in and ask questions about that particular institution, that they had a right in law to do so. We did not foresee the Madison case at that time, but it applies precisely to the Madison case and every other case out of that time period. (Cong. Rec. S3153, March 17, 1994).

Moreover, the existence of a Special Counsel appointed in the Madison case [illegible] as a rationale to avoid providing oversight information to Congress. In a meeting on March 17, 1994, the Minority [illegible] did not object to the disclosure of copies of documents to Congress, other than White House documents.

Please have your staff contact Joe Seidel at (202)226-3241 or Mike McGarry at (202)225-2258 to discuss arrangements to review the aforementioned documents as soon as possible. I would appreciate it if you would confirm by letter on or before March 25, 1994 your intention to comply, or not comply with this request for information.

I appreciate your prompt assistance and look forward to your cooperation in this matter.

Sincerely,

James A. Leach
Ranking Member

RT- 12
c r. Ryan
Standard Distribution
Mr. Adair
OGR Reps and Staff

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

March 24, 1994

Honorable Jim Leach
Ranking Minority Member
Committee on Banking, Finance
and Urban Affairs
House of Representatives
Washington, D.C. 20515

Dear Mr. Leach:

This is in response to the request of your staff for the minutes [redacted]eration.

We have [redacted] that their [redacted] would have a detrimental [redacted] you copies. While we will continue to make every effort to cooperate with your requests for records, we must be cognizant of our own investigatory obligations and especially mindful of the interests of the Special Counsel in the records that the RTC controls. In the past, we have not been able to respond to some of your requests for access to those records which were so inextricably connected to the investigatory efforts that their disclosure would compromise those investigations. We must continue to consider the effect upon these investigations of the disclosure of any RTC record. Consequently, until such time as it is determined that disclosing these particular records will not harm those various investigatory efforts, we must respectfully decline to respond to your request.

Out of concern that the RTC be as responsive as possible to your request, [redacted]igations. [redacted] about the potential detrimental effect of [redacted]

At such time that this disclosure will no longer harm either the RTC's investigation or that of the Special Counsel, we will review our decision. If you have any questions, please let me know.

Sincerely,

John E. Ryan
Deputy CEO

801 17th Street, N.W. Washington, D.C. 20434

Statement by

Representative James A. Leach

before the

U.S. House of Representatives

March 24, 1994

Mr. Speaker, I rise to a point of personal privilege of the House.

In rising to this point of privilege, I wish to express concern about the breakdown of comity that has occurred on a personal and procedural level in the House Banking Committee.

On a personal level unfortunate adjectives have been used; on a procedural level unprecedented tactics have been employed.

I don't wish to dwell on the personal, except to stress my high regard for the Chairman of the Banking Committee and to suggest that, as the theologian Reinhold Niebuhr once observed, the temper and integrity of the political debate is more important in our kind of democracy than the outcome of any issue.

Motivational aspersions are no substitute for full disclosure; indignation no substitute for pursuit of truth.

Members of the Majority may be speaking the truth when they indicate they have no evidence of a link between the failure of an Arkansas S&L and Whitewater and that they know of no improprieties at issue. But it should be understood that not speaking an untruth is not the same as describing a truthful situation, particularly if there has been no serious effort to pursue the truth.

Constitutionally it is the duty of Congress to oversee breaches of law or public ethics in the Executive Branch. During the 12 years of the so-called "divided government" of the Reagan/Bush era, the Legislative Branch took its Constitutionally-mandated oversight function seriously, as witnessed by the expansion in the size of its staff and the number of investigations undertaken.

Now both the Executive and the Legislative Branches of government are controlled by the same political party. The oversight mandate thus falls disproportionately upon the Ranking Members of the respective Committees for those areas of the Executive Branch over which they have jurisdiction. Not to assume leadership in performing the oversight function with regard to the way in which the financial institutions of this country are managed and regulated

would be to violate my oath to "support and defend the Constitution of the United States . . .and . . .well and faithfully discharge the duties of the office."

If the majority party refuses to uphold its responsibilities because of political embarrassment to its party's top elected official, the minority party is left with the choice either of joining in a complicity of silence or pursuing investigations that run the danger of being partisan.

In this context, I would simply emphasize that I raised the Whitewater issue with great reluctance, realizing the import as well as the power of the Presidency. I fully understand the political and personal liabilities involved. Nonetheless, I feel it would be inconsistent, indeed, hypocritical, to my own values, if I refused to pursue a line of inquiry potentially embarrassing to the President of a country which from its inception was intended to be hallmarked by law and its applicability to all citizens. It is, after all, the establishment of a government of laws, not men, that defines the uniqueness of the American experiment with democracy.

Procedurally, it should be noted that the Minority is currently engaged in one of the most profound checks and balances philosophical engagements with the Executive branch in the modern history of the Congress. This engagement carries far greater implications than any judgement relating to a particular embarrassment of a particular public official at a particular time because at issue is precedent: whether in future circumstances the oversight capacities of Congress can be thwarted if the Majority party of Congress is the same as that in control of the Executive branch and chooses to refrain from its oversight obligations in order not to embarrass its party's standings.

It is possible that the Constitutional precedent for our checks and balances system surrounding the refusal of the Administration to cooperate with an oversight probe of the Executive branch which the majority party does not sanction may have more long-term negative consequences than any episodic embarrassment that might relate to this or any President's past. What is at issue is the definition of Congress as it applies to the Constitutionally granted oversight responsibilities of the legislature. In our checks and balances system, Congress was given oversight responsibilities, but this Administration is suggesting in response to minority requests for documentation from Executive agencies that only Chairmen speak for Congress. The minority in Congress, by this logic, has no power to advance or fulfill its Constitutional rights if the majority does not concur in request for information. If such precedent is allowed to stand, Congress's oversight capacities will for all practical purposes be hamstrung whenever the Executive and Legislative branches of government are controlled by the same party. Would our founding fathers have had this in mind?

In this connection, on December 9, 1993, as Ranking Member of the Banking Committee, I wrote federal regulatory agencies to request certain documents of an oversight interest (**Example, Tab A**). In a follow-up letter I pointed out, as the courts have noted, "The Congress rarely acts as a body. Its manifold duties in the legislative, investigative, and oversight fields are almost invariably carried out through committees, committee chairmen, individual members, and staff personnel." Murphy v. Department of Army, 613 F .2d 1151, 1156 (1979). In addition, the court stated:

> "The Senate and the House are so organized that certain legislative and quasi-legislative activities may be accomplished only through committee action. In other respects, however, the legislature acts through its individual Members. All Members have a constitutionally recognized status entitling them to share in general congressional powers and responsibilities, many of them requiring access to executive information. It would be an inappropriate intrusion into the legislative sphere for the courts to decide without congressional direction that, for example, only the chairman of a committee shall be regarded as the official voice of the Congress for purposes of receiving such information, as distinguished from its ranking minority member, or other committee members, or other members of Congress. Each of them participates in the law-making process; each has a voice and a vote in that process; and each is entitled to request such information from the executive agencies as will enable him to carry out the responsibilities of a legislator."

Agency heads responded that a Ranking Member only has the authority of an individual Member of Congress and, therefore, may only obtain information that would be available to the public pursuant to the Freedom of Information Act. In addition, the Office of Thrift Supervision asserted that it differs "with the view that Rules X and XI of the House of Representatives grant to a ranking minority member (or any individual member) the same authority to request information that a committee chairman possesses." In short, the agencies contend that only Chairmen, not Ranking Members, speak for Congress.

Subsequently, on March 8, 1994, I wrote requesting information for the Banking Committee's upcoming RTC oversight hearing (**Tab B**). Agency heads again responded by holding to the position that only the Chairman of a Committee would be permitted access to agency documents.

In this dispute about who is entitled to speak for Congress in the context of Congress' right and obligation under Article I of the Constitution to conduct oversight of the Executive branch, the Chairman of the Banking Committee, in what may have been an effort to bolster the Executive's position, wrote agency heads on March 10, 1994, to suggest that they deny my document request and wrote

separately on March 14, 1994, to state that they need not answer questions concerning Madison Guaranty Savings and Loan at the scheduled hearings. **(Tab C and D)**. The Chairman's letter contained an implicit and unprecedented philosophical assertion that not only does a Chairman have the exclusive right to obtain oversight documents from the Executive branch, but the right to deny such documentation to other Members and the right even to deny inquiries about issues clearly germane to the subject of hearings.

So that there is no misunderstanding, the RTC Oversight hearing was scheduled under requirement of law, Section 21A(k)(6) of the Federal Home Loan Bank Act (12 U.S.C. §1441a(k)(6)), and there is no provision in that law for exceptions to Congressional oversight that relate to a single state and its institutions. The U.S. Congress wrote a law applicable to all 50 states, not 49, and the oversight of our laws applies throughout this country. Just as in America no individual is above the law, no state is beyond its reach. Just as no individual is entitled to violate the law out of ignorance of it, no person, even the Chairman of a Congressional Committee, is entitled after the fact to be sole interpreter of a law's meaning or serve as a censor to another Member's inquiries. Indeed, no Member of Congress has the right or power to deny relevant information to another Member.

In addition to the Federal Home Loan Bank Act, the Committee's role in oversight is buttressed by the House Rules as modified under the Legislative Reorganization Act of 1970. I refer to paragraph 2 of House Rule X providing for the Committee's "General Oversight Responsibilities" which states:

> "(b)(1) Each standing committee ... shall review and study, on a continuing basis, the application, administration, execution, and effectiveness of those laws, or parts of laws, the subject matter of which is within the jurisdiction of that committee and the organization and operation of the Federal agencies and entities having responsibilities in or for the administration and execution thereof, in order to determine whether such laws and the programs thereunder are being implemented and carried out in accordance with the intent of the congress and whether such programs should be continued, curtailed, or eliminated."

Separate procedural rules may apply to an investigative hearing, but such rules do not apply in this case. The statutorily mandated RTC hearing is an oversight hearing in accordance with Rule X. Any reliance on investigative hearing procedures to deny information to Committee Members is misplaced. Any information requests or questions by Members related in any manner to RTC operations are authorized under the Committee's oversight authority. It is also

expected that in answering questions witnesses have the obligation either to assert appropriate privileges or fully respond with answers to the questions (See, 2 U.S.C. §192, Sinclair v. United States, 279 U.S. 263 (1929)) and such answers shall be truthful. (See, 18 U.S.C. §1001, U.S. v. Poindexter, 951 F.2d 369 (D.C. Cir. 1991)).

Moreover, the precedent of the Banking Committee is clear with respect to the relevance of specific questions on specific institutions. On numerous occasions at past RTC oversight hearings, questions related to individual institutions have been asked by Committee Members, including the Chairman, and answered by witnesses. In fact, the Committee's invitation letter of March 3, 1994, to Treasury Secretary Bentsen for purposes of the RTC oversight hearing, seeks testimony and documents related to a specific institution, Homefed Savings. Of relevance also is the following statement last week of the Chairman of the Senate Banking Committee:

> So we have had now over the years since 1989, a very long series of regular oversight hearings where we call in the officials responsible for implementing that law to find out exactly how it is working and if there is a need to change any particular part of it. Is it working the way it was designed to work? Have we corrected all the abuses? We were so concerned about that issue that, in fact, we built into that 1989 law a requirement that there has to be a hearing here in Congress every 6 months on how that cleanup effort is doing and how that law is being implemented. Within the text of that part of the law we went so far as to say that any institutions that failed in that time period, in the mid-1980's, that if any Senator on the committee wanted to come in and ask questions about that particular institution, that they had a right in law to do so. We did not foresee the Madison case at that time, but it applies precisely to the Madison case and every other case out of that time period. (Cong. Rec. S3153, March 17, 1997).

To the degree the Chairman's letters are open to an interpretation that would imply the possibility that they have been requested by the Administration to bolster its efforts to deny information to the Congress and thereby the public, at issue would be a collusive effort by the Majority party in the Congress to aid and abet the Executive branch in its concerted effort to deny disclosure of information related to legitimate Congressional oversight.

In this regard, a letter recently copied to Rep. William Clinger, Ranking Member of the Government Operations Committee, evidences a comparable approach in another committee of Congress (**Tab E**).

It is the Minority's position that Executive branch witnesses must address their obligations to respond to legitimate oversight

requests and legitimate inquiries on the subject of hearings as required by the law and the Constitution, not in conjunction with any arbitrary desire of a Chairman to deny discussion on a subject the Executive branch would rather not forthcomingly address. The Minority party, has a baseline assumption that officials of the U.S. government will comply with the law and, when appearing before a committee of Congress, abide by the Code of Government Ethics for Federal employees to "Uphold the Constitution, laws, and regulations of the United States and all governments therein and never be party to their evasion." (Pub. L. No. 96-303, July 3, 1980, 94 Stat. 855)

The constitutionally-derived obligation of oversight cannot be short-circuited at the whim of the Congressional majority. It is just as much the duty of the minority party, as the majority. Indeed, in real life circumstance as evidenced in this particular incident, oversight may in practice imply a greater obligation on the party out of power than the party in control of the Executive branch.

Hodding Carter, the distinguished journalist from Mississippi, recently noted that Southerners of virtually all philosophical stripes recognized a little or a lot of truth in certain Northern concerns about discrimination that existed in the South in the heyday of civil rights activism. But with understandable resentment all felt that Northerners had a duty to look a little more assiduously in their own backyards. In this probe of Whitewater, I believe an outsider might conclude that the single party concentration of political power in Arkansas may be in need of review that the shadow of Lyndon Johnson and Huey Long may have been cast to greatly on a former governor ship. But as a Northerner, I am obligated to note that my primary responsibility is my backyard, in this case the body to which I am elected to serve. While I believe it would be unfair to suggest that one of America's great political parties is more honest than the other, I believe the concerted effort to avoid accountability and full disclosure in the Whitewater incident, and the unfortunate institutional precedents in process of being established, reflect attitudes more associated with single party governance of closed than open societies. Competition is the American way. When single party dominance is long and deep, arrogance associated with power creeps incontestably into the system. Whitewater, in the end, may tell more about Congress than the Executive branch.

In this context, the Minority raised concerns about the manner in which the RTC Oversight hearing scheduled this week might have been conducted. Nevertheless, the Minority was disappointed the hearing was abruptly postponed.

Postponement of the hearing by the Majority raises, above anything else, the issue of compliance with the law. Compliance with the law is not a matter of convenience or discretion. The Majority party has no prerogative to avoid capriciously its legal obligations.

Hearings mandated by statute were to have occurred by December 3, 1993. It is a statutory obligation of the Majority in the Legislative Branch to conduct on a timely basis RTC oversight; it is the statutory obligation of the Executive to cooperate with Congress and comply with its legal responsibilities.

The negotiations this week between leaders of the House which led to the passage of a bipartisan resolution expressing the sense of the House as to the need to hold bipartisan hearings are promising. The subsequent statements by the Speaker that these discussions were of the "possibility of hearings, not a concession that hearings are not necessarily going to take place," is disappointing. The Majority has an obligation to ensure that the decision to postpone indefinitely RTC hearings does not amount to yet another example of Congress not applying the law to itself.

With regard to a possible hearing, let me stress the Minority has offered to cooperate fully with the Special Counsel. We have transferred substantial information to his office. We have given him our proposed witness list and offered to support a delay in the day of hearings provided under House rules to the Minority to allow him a chance to depose witnesses first. For his part, the Special Counsel, in a meeting on March 17, 1994, with the Minority, said that he would not impede in any manner Executive Branch testimony and that he would not stand in the way of an RTC oversight hearing. Mr. Fiske also stated that he did not object to the disclosure of copies of documents to Congress, other than White House documents. The existence of a Special Counsel appointed in the Madison case cannot be used as a rationale to avoid providing RTC oversight information to Congress.

Congress and prosecuting attorneys have differentiated roles, but they are by no means incompatible. In fact, they are generally complementary. Indeed, in the Banking Committee hearings over the past decade on institutions such as Lincoln (Charles Keating) and Silverado (Neil Bush) the Justice Department had tandem investigations underway. Hearings almost always reveal knowledge and perspective that is helpful to prosecutors. It was, after all, Senator Ervin's committee that revealed the existence of the Watergate tapes and it was the recent Senate hearing that revealed improper contacts between Executive Branch agencies and the White House. The major recent exception where a prosecutor was undercut by Congress involved excessive zeal to embarrass Presidents Reagan and Bush that caused a committee to offer immunity to certain witnesses in the Iran Contra probe. But the more general proposition is that constraining a Congressional inquiry has the effect of reducing knowledge, thus reducing prosecutorial discretion.

Mr. Speaker, in a country in which process is our most important product, it is the belief of this Member that the precedents established in this investigation are more important than the investigation itself. Nevertheless, I come to the floor this

afternoon to present to the attention of the House and the American people some findings, with supporting documentation, the Minority has uncovered in its ongoing investigation of the Whitewater/Madison affair.

Accordingly, I would like to review in both a perspective and information dispensing sense the Madison/Whitewater issue and divide the remainder of my discussion in two categories: what happened and how the Administration has responded.

On the landscape of political scandals Whitewater may be a bump, but it speaks mountains about me-generation public ethics as well as single party control of certain states and the U.S. Congress.

In a nutshell, Whitewater is about the arrogance of power -- Machiavellian machinations of single-party government. It all began in the late 1970s when a budding S&L owner named James McDougal formed a 50-50 real estate venture with a young politician, the then Attorney General of Arkansas Bill Clinton. In this venture called Whitewater, the S&L owner and S&L affiliated entities provided virtually all, perhaps all, the money; the governor-in-the-making provided his name.

Over the years, the company received infusions of cash from the S&L as well as from a small business investment corporation which diverted, allegedly at the Governor's request, federally-guaranteed funds from a program designed for socially and economically disadvantaged people to the Governor's partners and thence, in part, to Whitewater.

Some of these funds were used to pay off personal and campaign liabilities of the Governor; some to purchase a tract of land from a company to which the state had just given a significant tax break. Whitewater records have apparently been largely lost. A review of the numerous land transactions, however, raises questions of what happened to the money that came into the company and a review of the President's tax records raises questions about tax deductions that were taken and income that may not have been declared.

Under the governorship of Bill Clinton, Jim McDougal was named a Gubernatorial aide to serve principally as liaison to the Economic Development, Commerce, and Highway and Transportation Departments; the first lady of Arkansas was hired to represent the S&L before state regulators; the president of the S&L was placed on the state S&L commission; an attorney who represented the S&L was named the state S&L regulator; the S&L received rent from state agencies; Whitewater had roads constructed using a state agency program and state funds; and the S&L was allowed to operate, despite being insolvent for an extended period, providing millions in loans and investment dollars to insiders and the Arkansas political establishment.

Under the governorship of Bill Clinton, the S&L was allowed to grow 25-fold until federal regulators forced its closing, at which time taxpayers picked up the tab for losses that amounted to approximately 50 percent of the institution's deposit base.

Under the Governorship of Bill Clinton, the total number of state chartered savings associations declined dramatically. Over the period December 1979 to December 1992, the number of stock state chartered thrifts in Arkansas declined from thirty-three, with assets of $961,002,000 to three, with assets of $146,072,000. Viewed another way, the amount of assets available to support home mortgage lending for the people of Arkansas declined.

The story of Whitewater is thus part and parcel the story of the greatest domestic policy mistake of the century -- the quarter trillion dollar S&L debacle. It is the story of a company which in one sense was a simple real estate development venture, but in another was a vehicle used to spirit federally insured deposits from an S&L and compromise a significant political figure.

In the largest series of bank robberies in history, which precipitated an industry bailout larger than the taxpayers provided Lockheed, Chrysler and New York City times a factor of ten, it is fair to ask: "What happened? Who is responsible?"

An answer to these inquiries requires an understanding that those accountable are not only a few negligent and corrupt S&L owners, but attorneys, accountants, state and federal legislators, regulators and assorted public officials. As wide-ranging as the responsibility is, however, it is a mistake to be so glassy-eyed as not to seek lessons for the future through a demand for individual accountability for breaches of law and ethics in the past.

Macro-economics aside, public responsibility for the S&L debacle is of a tripod nature, involving: 1) the conflict-ridden role of Congress in passing loose laws; 2) the ideological mistake of the Reagan Administration in urging deregulation in an industry which requires responsible standards; and 3) the culpability of a small number of state governments, such as in California, Texas, Louisiana and Arkansas, which failed to rein in high flying state-chartered, state regulated institutions, which because of the federal nature of deposit insurance, precipitated a massive transfer of wealth from states with responsible governments to those without.

In Arkansas it is impressive how the federal government was obligated to close more than 80 percent of state-chartered S&Ls in the 1980s and how large taxpayer losses were in relation to the state's S&L deposit base. The failure of the Clinton Administration in Little Rock to fulfill its responsibility to police state financial institutions had the effect of increasing tax burdens on citizens of Arkansas as well as other states.

While taxpayers at the national level were forced to pick up the tab for the mistakes of politicians in whose elections they could not vote, citizens in states like Arkansas were doubly shortchanged. Not only did they have to share in eventual bail out costs, but when their home based financial institutions frittered away the hard earned deposit savings of their state to insiders, fewer resources were made available to potential home owners and minority entrepreneurs.

What the Keating-5 scandal was all about was the attempt of an S&L owner to compromise through political contributions significant political players, in this case five senators, to influence regulators to keep an insolvent, corruptly-run, institution from being closed. What makes Governor Clinton's involvement with a company which helped breach the vaults of an Arkansas S&L philosophically at least equal to, but in reality more troubling than the Keating model is that not only did the institution's management organize conflict-ridden fund raising endeavors for the key politician in the state, but through Whitewater it put the Governor in a compromising personal finance position as well.

What is extraordinary is the hypocrisy of the circumstance. The following 1991 announcement statement of Governor Clinton speaks for itself:

> "For twelve years of this Reagan-Bush era, the Republicans have let S&L crooks and self-serving CEO's try to build an economy out of paper and perks instead of people and products. They stack the deck in favor of their friends at the top and tell everybody else to wait for whatever trickles down."

Despite the rhetoric it is remarkable how time after time in the 1980s, alleged defenders of the little guy in American politics found themselves advancing the interests of a small number of owners of financial institutions which were run as private piggy banks for insiders. The intertwining of greed and ambition turned democratic values upside down.

In our kind of democracy ends simply don't justify means. Just as a conservative, who may despise government, has no ethical right not to pay taxes, a liberal has no ethical basis to put the public's money in his own or his campaign's pocket just because he may have the arrogance to believe he is advancing a political creed that is in the public's interest.

Why does all this matter?

Here, it would perhaps be appropriate to paraphrase the great Illinois Senator, Ev Dirksen: a few thousand here and a few thousand there and pretty soon it adds up to a real scandal. Put another way, an ethical lapse here and an ethical lapse there and pretty soon it adds up to a character deficit.

I have never known anyone in public life better able to put embarrassing episodes behind him than Bill Clinton. Accordingly, I couldn't have been more surprised by the discombobulation of the Administration at the minority's restrained request last November for hearings and full disclosure.

As in most serious public scandals, cover-ups can prove as troubling as acts at their source.

Much press attention has centered in recent weeks on the revelations of improper contact between employees of independent federal agencies and the White House. The question of whether a "heads up" was appropriate is of significance. More so, is whether the line between a "heads up" and "cover-up" was crossed.

By background, for several years a group of criminal investigators for the RTC in Kansas City reviewed the failure of Madison Guaranty Savings and Loan in Little Rock and came to the conclusion criminal referrals were appropriate. In the last week of September 1993, they sent copies of their referrals to Washington. Within a few days of receipt of the referrals from the Kansas City office, RTC Washington officials visited the White House. Within a few weeks, in an unprecedented change of procedure, Washington demanded to review all Madison referrals. Within a few months, a senior Kansas City criminal investigator was removed from the case. Within a few more months, officials from RTC Washington visited Kansas City to pass on the determined message that senior RTC officials in Washington wanted it understood that they wished to claim Whitewater was not responsible for any losses at Madison.

Courageously, Kansas City investigators refused to allow Washington RTC objections to change the content of the referrals they sent in the second week of October 1993 to the Justice Department.

Courageously, Kansas City investigators refused to back the Washington position that Madison's losses were unrelated to Whitewater and pointed out to their superiors that in one intensely reviewed six month period alone approximately $70,000 was transferred from Madison and Madison affiliated companies to Whitewater.

Courageously, Kansas City investigators have sought whistleblower protection rather than comply with the Washington RTC gag order that no one from Kansas City could speak with Special Counsel Fiske without clearance through and accompaniment of Washington RTC officials.

The briefing of the White House by high ranking Department of Treasury and RTC employees must be understood in the context of the development and transmittal to the Justice Department of these referrals and in the context of the possibility Kansas City was in the process of developing further referrals.

There are many elements of the Whitewater affair that are a bit esoteric. But the revelations that U. S. government officials briefed key White House aides on potential legal actions which independent regulatory agencies might be obligated to take implicating but not charging the President and First Lady subvert one of the fundamental premises of American democracy -- that this is a country of laws and not men.

In America no individual, whatever his or her rank, is privileged in the eyes of the law. No public official has the right to influence possible legal actions against him or herself. For this reason agencies of the government as well as the White House have precise rules that govern their employees.

The following standards (31 CFR §0.735-30) apply to the Department of Treasury:

> "An employee should avoid any action ... which might result in, or create the appearance of ...
> (2) Giving preferential treatment to any person; ...
> (4) Losing complete independence or impartiality;
> (5) Making a Government decision outside official channels; or
> (6) Affecting adversely the confidence of the public in the integrity of the Government."

Similarly, the following standards contained in 12 CFR § 1605.7 apply to RTC employees:

> "No employees shall engage in any action, which might result in, or create the appearance of ...
>
> (b) giving preferential treatment to any person; ...
> (d) losing complete independence or impartiality;
> (e) making an RTC decision outside official channels; or,
> (f) adversely affecting the public's confidence in the integrity of the RTC."

Likewise, the following standards apply to the White House (3 CFR §100.735-4):

> "In all circumstances employees shall conduct themselves so as to exemplify the highest standards of integrity. An employee shall avoid any action, whether or not specifically prohibited by this subpart, which might result in, or create the appearance of:
>
> (1) Using public office for private gain;
> (2) Giving preferential treatment to any person; ...
> (4) Losing complete independence or impartiality;
> (5) Making a Government decision outside official

channels; or

(6) Affecting adversely the confidence of the public in the integrity of the Government."

Perhaps laws have not been broken, but seldom have the public and private ethics of professionals in the White House and Executive Departments and branch agencies been so thoroughly devalued.

The point of all this is that there is a disjunction in this Administration between public policy and private ethics. Americans abhor privilege; hypocrisy gnaws at the American soul; it leaves a dispiriting residue of resentment.

What is also extraordinary is the absence of simple truth.

Administration Claim: Whitewater caused no losses to Madison.

Fact: As reflected in the minority-developed charts and evidenced by supporting documentation, Madison and affiliated companies transferred significant resources to Whitewater. In addition to being a modest sized real estate company, with a cash flow derived from land sales, Whitewater appears to be one of a dozen so companies with direct or indirect access to Madison and its taxpayer guaranteed deposits.

Administration claim: The Clintons lost money in Whitewater.

Fact: To have lost money in Whitewater implies that the Clintons invested sums which were unrecovered. Their Whitewater partner, James McDougal, claims at most the Clintons over the years put in $13,500 in Whitewater. The Minority has provided evidence that one land transaction alone returned more than this amount to the Clintons and published reports indicate tax deductions of some value were taken. The Lyons report, as well as a review of land sales, indicates substantial sums were taken out of Whitewater over the years. It is not clear how disbursements were arranged. What is clear is that infusions of capital from land sales, from Madison affiliated entities and possibly from others appear to have covered loans the company and the Clintons took out. The company may have had a negative value when the Clintons sold their half interest in 1992, but that neither means the Clintons themselves lost money, nor that questions ought not be asked about how direct or

contingent liabilities may have been disposed of as late as 1992.

~~**Administration claim:** The President and his staff would fully cooperate with Congress.~~

Fact: The Executive branch is actively working to prevent full disclosure of documents and committee access to witnesses.

Administration claim: It has done nothing wrong in relation to the RTC investigation into the failure of Madison and is fully cooperating with Special Counsel Fiske's probe.

Fact: Officials of an independent regulatory agency (the RTC) immediately notified the White House of the probe of Madison by its Kansas City office and attempted to put in place procedural techniques to undercut the traditional independence of its regional offices.

Fact: In January, 1994 RTC Washington met with Kansas City staff. After the meeting the Kansas City office filed a formal complaint with Washington RTC.

Fact: On February 2, 1994, the day Roger Altman briefed the White House on Madison Guaranty, RTC Senior Attorney, April Breslaw visited the Kansas City office and said that Washington would like to say that Whitewater caused no losses to Madison. Kansas City employees protested that this was not the case.

Fact: On September 29, 1993, before the new criminal referrals were sent to the Justice Department, Treasury General Counsel Jean Hanson briefed White House Counsel on them. Nine days after the meeting, the referrals were sent to the Justice Department. On October 14, Jean Hanson with Secretary Bentsen's Press Secretary and Chief of Staff met with Presidential Advisors ostensibly to discuss press inquiries related to Madison Guaranty.

Fact: On February 2, right after the appointment of Special Counsel Robert Fiske, Roger Altman gave the White House a "heads up" briefing on Madison. At the Senate Oversight Board hearing, Roger Altman revealed his February 2 meeting, but no others. Several days later, the September and October White House briefings were revealed. On March 9, the Washington Post reported that there were numerous other contacts between the Treasury and the White

House on Madison. After subpoenas are issued it is revealed that there are over 3,500 pages of documentation surrounding these contacts which the White House terms as inconsequential.

Fact: After the appointment of Special Counsel Fiske, Washington RTC officials imposed censorship guidelines on Kansas City RTC employees. No discussion with Fiske could be made without going through Washington. No meetings between Kansas City office and Fiske could take place without accompaniment of Washington officials. No materials could be forwarded without going through Washington. All information concerning attorney-client privilege was to be redacted, with Washington RTC determining the scope.

Administration Claim: No fundraising improprieties occurred.

Fact: On April 4, 1985, Jim McDougal hosted a fundraiser for Governor Clinton. The Clinton's repeatedly asked McDougal to host the fundraiser to pay off the $50,000 personal loan that Clinton had taken out in the final weeks of his 1984 campaign. The question at issue is whether some of the money appears to have been diverted from Madison Guaranty, which would then, with the failure of Madison, imply deferred federal financing of a gubernatorial election. For example, one cashier's check for $3,000 was made in the name of Charles Peacook III, then a 24-year-old college student who disclaims any knowledge of having made a contribution. Mr. Peacock's father was a major Madison borrower and served at one time on Madison's board. Other checks that the RTC is reviewing include a $3,000 check from the late Dean Landrum, an employee of Charles Peacock, and one from Susan McDougal. In the former Governor's defense, candidates are not always in a position to verify their campaign contributions.

Mr. Speaker, the President's former partner, Jim McDougal in a number of occasions has contested the assertion that no resources were taken from Madison Guaranty and its related entities and given to Whitewater. In an AP story on February 4, 1994 and on the David Brinkley Show on March 13, 1994 he specifically raised concerns that Madison Marketing was not owned by Madison Guaranty, but was instead a sole proprietorship owned by his former wife. He has cited

documents filed with the Arkansas Secretary of State's office to buttress his claim.

Mr. McDougal apparently believes there are subtleties about the nature of Madison Marketing that need clarification. Mr. McDougal gives great credence to the circumstance that at some point Madison Marketing may have been operating as an intended proprietorship of his wife, but, whether this is true, this appears to be a distinction without a difference, form over substance. The overwhelming perspective as contained in the 1986 Federal Home Loan Bank Board Report of Examination is that all Madison Marketing resources were derived from Madison Guaranty or its subsidiaries. Any money transferred to Whitewater from Madison Marketing would thus have had as its source the S&L. The 1986 FHLBB exam, upon which the earlier staff memo on this subject was based, states:

> "A. Objectionable Conflicts of Interest
>
> Conflicts of interest involving James McDougal, Susan McDougal, and William Henley have been detrimental to the safety and soundness of the Institution. These individuals are in control of the Institution (Madison Guaranty) through their stock ownership. James McDougal owns 63.5% of the outstanding Madison shares. His wife, Susan McDougal, owns 12.6%, and her brother, William Henley owns 8.5%. In addition to his ownership control, Mr. McDougal, as President of the Institution's subsidiary (Madison Financial), has complete control of the land development projects discussed in comment
>
> B. This control enabled Mr. McDougal to structure the development and financing of the projects so that substantial cash payments could be diverted to himself, Susan McDougal, William Henley and others. These payments have directly benefited these individuals, but Madison Guaranty has received little or nothing in return. Though they have been structured to avoid specific Insurance Regulations, these payments are contrary to the general policy of the FHLBB concerning conflicts of interest as stated in Insurance Regulation 571.9 and FHLBB Memorandum R-19a.
>
> Many of these payments have been funneled through business entities which are owned or controlled by the McDougals, employees, relatives of employees, or close friends of the McDougals and Henley. . . .
>
> 2. Madison Marketing
>
> Madison Marketing is paid for doing all the general advertising for Madison Guaranty and most of the advertising for Madison Financial's land development projects. All of Madison Marketing's business is derived from Madison Guaranty or its subsidiaries. Since 1983 these payments total $1,532,000. . .

> Given the evidence of Madison Marketing's invoices, it is questionable how much of these advertising services are actually performed by the firm. The actual work of advertising, such as the design and production of commercials and providing air time or newspaper space, appears to be performed by others. Madison Marketing apparently just pays the bills of other providers and adds a 15% fee of its own. Examiners estimated this fee to be approximately $200,000 since 1983. It would appear that Madison Guaranty could have an employee perform similar work for much less money.
>
> Mr. Latham stated that Madison Marketing made no payments to any stockholders. This statement is false. As a part of a test for such payments, the examiners discovered two remittances from Madison Marketing to Susan McDougal which total $50,000. This was a test, and there may be additional payments."

Mr. McDougal apparently believes Madison Marketing should be understood simply as a sole proprietorship of his wife with no ties to the S&L. This view is in discordance with that of the United States Government, as indicated by the FHLBB report cited above; it is also in discordance with a contemporaneous view of the legal situation as defined and described by Mr. McDougal in a July 1, 1986 memorandum from him to Madison Guaranty's President, Mr. John Latham. In this memorandum, which is a copy of an original Madison document in the possession of the RTC and the minority of the House Banking Committee, Mr. McDougal asserts:

> In late January, 1985, Mrs. McDougal permitted Madison Marketing to become a subsidiary of Madison Financial Corporation.

In addition, Mr. Jeff Gerth of The New York Times has reported on March 8, 1992, an earlier instance in which Madison Marketing transferred resources to Whitewater. Mr. Gerth reported:

> Whitewater's check ledger shows that Whitewater's account at Madison was overdrawn in 1984, when the corporation was making payments on the Clinton's loan. Money was deposited to make up the shortage from Madison Marketing, an affiliate of the savings and loan that derived its revenues from the institution, records also show.

In addition, David Hale and his attorney Randy Coleman have asserted in recent days that it was proceeds of an $825,000 Madison loan that was used to leverage SBA funds and to make the $300,000 loan to Susan McDougal, of which $110,000 was deposited to Whitewater.

This evidentiary material coupled with the April 17, 1985 Minutes of Madison Financial's board authorizing a transfer of $30,000 from

Madison Financial to Whitewater, the memo of L. Jean Lewis of the Kansas City RTC office showing over a six month period reviewed that approximately $70,000 was transferred from Madison or affiliated entities to Whitewater, plus other more confidential RTC material in our possession indicates there is every credible reason to believe that Madison Guaranty through affiliated entities did transfer money to Whitewater.

Furthermore, records filed with the Arkansas Secretary of State's office show that Mr. McDougal, as president of Madison Financial Corporation (a subsidiary of Madison Guaranty) on July 26, 1986 filed an application for registration of fictitious name. The application was for Madison Financial to do business as "Madison Marketing." This document does not represent incorporation papers. This application appears to be in response to the 1986 Federal Home Loan Bank exam which noted that with regard to Madison Marketing and Madison Real Estate, Madison Financial had "not registered as a 'd/b/a' in the County records."

The effect of this statement with its supporting documentation is to evidence that:

1) Whitewater may have begun as a legitimate real estate venture but it came to be used to skim, directly or indirectly, federally insured deposits from an S&L and a Small Business Investment Corporation. When each failed, the U.S. taxpayer became obligated to pick up the tab;
2) The family of the former Governor of Arkansas received value from Whitewater in excess of resources invested;
3) Taxpayer guaranteed funds were in all likelihood used to benefit the campaign of a former governor;
4) The independence of the U.S. Government's regulatory system has been flagrantly violated in an effort to protect a single American citizen;
5) Congress and the Executive are employing closed society techniques to resist full disclosure of an embarrassing circumstance, with unfortunate precedent setting ramifications.

Last month a BBC reporter asked me if we Americans weren't making too much of this scandal. He raised a fair question. Compared with petty potentates around the world, who routinely walk off with millions and in some cases billions, conflicts of interest in American politics are of petty variety. In this case, however, we have a situation where a multi-thousand dollar conflict of interest led to a multi-million dollar hit on the taxpayer. That is the meaning to the failure of Madison Guaranty. That is also the meaning of the Small Business Investment Corporation called Capitol.

It is simply not appropriate to shrug it off and say that this is the way things are done in small states. They aren't in Nebraska, South Dakota, or Iowa. It is simply not appropriate to say it isn't a federal issue. It is. The U.S. taxpayer has lost millions; home

owners in Arkansas have lost institutions that were established to serve their needs; minorities throughout the country cannot lightly shrug off yet another instance in which a program designed to give them a crack at the American dream was redirected to serve the investment ego a state political establishment.

It is suggested by the Majority that we have better things to do around here. There again is some truth to this. The minority also wants to get on with the business of health care, welfare reform, crime legislation. Indeed, we pledge to be constructive and are not blocking any Congressional consideration of these issues. But, in a larger sense, it should be understood that these "we have better things to do" laments suggest that ethics, governmental integrity, and the possible misuse of the public's money should be secondary considerations -- something to worry about only when we have time. In a democratic system, built and maintained on the confidence of the people, placing such considerations last on the list of priorities is a highly dubious game. Nothing works over the long haul if the public loses confidence in its governmental institutions and the people who operate those institutions. The task of keeping the people's confidence may not be pretty or pleasant, but it is a first priority in our system -- not a last priority as all too many are suggesting today.

Whitewater is less about the issues of the day than it is the ethics of our time. It is a central issue not because it is big, but precisely because it is small.

The way we in America keep our scandals from becoming too big is by holding people accountable when the amounts of money at issue are relatively small. It is the principles at issue, not the dollar amounts that matter.

In conclusion, let me stress that the most difficult issue to deal with is the question of proportionality. When the Minority made its restrained request for hearings last November I suggested that while there was fire with the smoke, Whitewater appeared to be more a camp than forest fire. I now believe the fire has spread to the grass and is heading to the trees but that it is still not too late to put it out with full disclosure and full accountability. In this regard, I suggested in a December Washington Post editorial that when breaches of law or public ethics occur, options often exist as to whether civil or criminal remedies are appropriate. I presumptuously concluded then and maintain now that there is no reason not to proceed with civil accountability in a civil way. The last thing this country needs is a year long trial or travail for the President of the United States. It would divide the country and be unfair to the public as well as the President.

Accordingly, I have pledged to the President's Counsel as well as to the Special Counsel that I will do my best to put the issue behind once disclosure is provided. Accountability is in order; a

Constitutional crisis is not. The Presidency should neither be jeopardized nor debilitated. Rather than high crimes and misdemeanors, the issue today relates to high improprieties and breaches of the public trust.

-- 30 --

..f-13137
cc: Mr. Ryan
Standard Distribution
Ms. Kulka
Mr. Adair
Ms. Hinton
Ms. Carter
Ms. Kauper
OGR Reps & Staff

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

March 30, 1994

Honorable Jim Leach
Ranking Minority Member
Committee on Banking, Finance
and Urban Affairs
House of Representatives
Washington, D.C. 20515

Dear Mr. Leach:

We wish to comment on your March [illegible], 1994 statement before the U.S. House of Representatives as it relates to the RTC's handling of Madison Guaranty. Furthermore, we are concerned that the RTC's ability to recover money for the taxpayers may be compromised by unauthorized and premature disclosure of active investigative information.

By way of background, I became Deputy CEO of the RTC on January 4, 1994. Ellen B. Kulka became General Counsel on January 17, 1994. Neither of us are political appointees. No pressure has been exerted by the Treasury, the White House, or any other source in the Executive Branch concerning the performance of our responsibilities with respect to Madison Guaranty or Whitewater since either of us joined the RTC.

Most of the events cited in your statement occurred before we joined the RTC and we have no first-hand knowledge of them. However, we do feel compelled to point out one or two facts in the documents you disclosed that we believe put a somewhat different light on matters than what you cast. While we believe that any comment about criminal referrals should be avoided, the rush [illegible] confidential documents and to obtain information [illegible] from junior staff has led to substantial misinformation [illegible] disseminated to the public. [illegible], the overriding fact is that referrals were made exactly as the investigators had prepared them irrespective of whether there were internal staff disagreements about them or not. We would also observe that, based on our short tenure, internal staff disagreements at the RTC are not uncommon. Second, you stated that "...A senior Kansas City criminal investigator was removed from the case.." What you failed to point out--or perhaps were

Honorable Jim Leach
Page 2

not [redacted] whom the investi[redacted] disagreements was also removed from the case at the [redacted].

As a general matter, it is clearly inappropriate for a government agency to publicly discuss referrals made to the Justice Department regarding possible criminal violations because such discussions could undermine the Department's ability to prosecute the case if the facts are determined to warrant prosecution. As we have indicated to you on numerous recent occasions, the RTC follows this policy. Disregarding this policy, you have demanded information regarding such matters. [redacted] last week, you publicly released document[redacted] which were obtained from employees of the RTC who were not auth[redacted] you requested a particular document [redacted] apparently already in your possession. [redacted] to the [redacted] dialogue with [redacted] understanding that we believe [redacted] inappropriate and cou[redacted]tions. [redacted] of our conversation with Mr. Fiske to your staff before your comments on Thursday. We were surprised to see the document in the materials appended to your statement which was supplied to the press.

With respect to events that are attributed specifically to us, you [redacted] visited Kansas City to [redacted] wanted it [redacted] not responsi[redacted] know [redacted] interpreted, we are quite sure that neither of us has given any such instructions to RTC staff. In recognition that it is rarely possible to prove something didn't happen, we simply wish to be judged by our actions in the performance of our responsibilities. [redacted] first, the [redacted] that [redacted] report; [redacted] with respect to Madison; third, [redacted] the Legal Division in February 1994 of Pillsbury, Madison & Sutro to serve as outside [redacted] full cooperation the RTC has given to [redacted] Fiske.

Honorable Jim Leach
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When [illegible] has completed its investigation and taken appropriate action, a full report on this matter [illegible] to the U.S. [illegible]. We fully expect to be judged by our actions at that time. In the meantime, we believe all parties concerned would be ill-served by the premature disclosure of incomplete and fragmentary data.

Finally, we are quite concerned about the future implication of the encouragement given to RTC staff over the unauthorized disclosure of confidential information. Such disclosures not only can impair the RTC's ability to pursue recoveries for the taxpayer but also could compromise the financial privacy of any citizen whose only misdeed was doing business with a savings and loan that failed. Our attempts to protect the RTC's legal and fiduciary duties in [illegible] regard, and to speak consistently on an extremely sensitive matter is inappropriately characterized as "gagging".

We have made all information requested by Mr. Fiske's staff available to him and will continue to cooperate to the fullest extent possible. We have made substantial amounts of information available to your staff and the staffs of others in Congress. To the extent consistent with our duty to complete an investigation and make sure it is not compromised, we will continue to cooperate with Congress in a manner consistent with our understanding of our duties.

Sincerely,

John E. Ryan
Deputy CEO

Ellen B. Kulka
General Counsel

RT- 076
cc: Mr. Ryan
Standard Distribution
Mr. Adair
Ms. Kulka
Mr. Benkley
Mr. Collishaw
Ms. Kauper
Ms. Hinton
OGR Reps & Staff

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

March 30, 1994

Honorable Jim Leach
Ranking Minority Member
Committee on Banking, Finance
and Urban Affairs
House of Representatives
Washington, D.C. 20515

Dear Mr. Leach:

This is in response to your letter dated March 23, 1994, in which you requested **access to all records pertaining to Madison Guaranty.** The basis for this request is the House of Representatives' decision on March 22nd instructing the House leadership to design a format for hearings pertaining to Madison and Whitewater. Based on this decision, you have requested the Madison documents **in order to "prepare for the upcoming hearings." Your letter further** [redacted] of **records which are related to his investigation "other than** White **House documents."**

While we are aware of the House's action several days ago, it is our understanding that the procedures for such a hearing have not been finalized, nor has the House determined which Committee will hold the hearing. Similarly, we have not been informed of any action on behalf of the House Banking Committee to reschedule Thrift Depositor Protection Board Oversight hearings. Consequently, we believe that it is inappropriate for the RTC to respond to document requests in preparation for hearings until we have been notified by the proper officials.

[redacted] to provide access to any records [redacted] Guaranty. [redacted] of infor[redacted] authority [redacted] to this information. This is an additional reason for the RTC to wait until the House determines how it will proceed in this area.

801 17th Street, N.W. Washington, D.C. 20434

Although the RTC cannot respond to your request, we will continue to work with your staff to make available to you all information that can be made public. If you have any questions, please let me know.

Sincerely,

John E. Ryan
Deputy CEO

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U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
ONE HUNDRED THIRD CONGRESS
2129 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6050

March 31, 1994

JAMES A. LEACH, IOWA
BILL McCOLLUM, FLORIDA
MARGE ROUKEMA, NEW JERSEY
DOUG BEREUTER, NEBRASKA
THOMAS RIDGE, PENNSYLVANIA
TOBY ROTH, WISCONSIN
ALFRED A. McCANDLESS, CALIFORNIA
RICHARD H. BAKER, LOUISIANA
JIM NUSSLE, IOWA
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SPENCER BACHUS III, ALABAMA
MIKE HUFFINGTON, CALIFORNIA
MICHAEL CASTLE, DELAWARE
PETER KING, NEW YORK

BERNARD SANDERS, VERMONT

(202) 225-4247

John E. Ryan
Deputy Chief Executive Officer
The Resolution Trust Corporation
801 17th Street, N.W.
Washington, D.C. 20434

Ellen B. Kulka
General Counsel
The Resolution Trust Corporation
801 17th Street, N.W.
Washington, D.C. 20434

Dear Mr. Ryan and Ms. Kulka:

I am in receipt of the two RTC letters of March 30, 1994 and would like to make the following points.

While I have made no assertion or implication that either of you are responsible for RTC decisions made last fall, my concern is that efforts were made to jeopardize the independence of the regulatory system at that time and that certain reorganization decisions recently made may impinge on the independence of the RTC's investigations division. For perspective, I have noted and you do not contest that:

1) [redacted] that within two days of receipt of [redacted] visited the [redacted]

2) [redacted] of the [redacted], and shortly after [redacted], attempted to [redacted] an unprecedented change of procedure related to reviewing then existent and future Madison referrals;

3) Shortly after, a senior Kansas City criminal investigator was removed from the case;

4) Then in early February, officials from RTC-Washington visited Kansas City where the message was communicated that senior RTC officials in Washington wished to claim Whitewater did not cause any losses at Madison.

Page 2
John E. Ryan
Ellen B. Kulka
March 31, 1994

Nothing in your response disputes the occurrence of these events. With regard to the statement "that senior officials in Washington wanted it understood that they wished to claim Whitewater was not responsible for any losses to Madison," you state, "we are quite sure that neither of us has given any such instructions to RTC staff." I appreciate this perspective. However, it is a point of fact, not conjecture, that RTC attorney April Breslaw told a senior criminal investigator in the Kansas City office that, "Ryan and Kulka, the 'head people,' would like to be able to say that Whitewater did not cause a loss to Madison," as reflected in the attached notes from the taped conversation of February 2, 1994.

With regard to your implicit acknowledgement that RTC-Washington disagreed with criminal referrals developed at the regional office, it should be stressed that even though these referrals were sent to Justice exactly as investigators had proposed them, it is not the case, as you suggest, that internal staff disagreements in the Washington vs. regional office context are common. The fact is that it is virtually unprecedented for RTC-Washington to attempt to influence the content of a criminal referral developed by a regional office in the way RTC-Washington attempted. [illegible] because of the courageous refusal of the Kansas City office to modify their content that the referrals were sent untampered to the Department of Justice. This decision in Kansas City presumably represented a consensual leadership decision, not simply a "junior staff" approach as your letter implies. In this regard, there is no indication whatsoever that the referral information reflected anything except the highest professional standard.

As for documentation, it is always a matter of judgement as to what to release publicly. We made a careful effort to release nothing that affected the prosecutorial strategy of the Special Counsel. In fact, we carefully culled documents in our possession with the intent to withhold anything that could affect prosecutorial discretion. We even redacted previously unreported information that may have related to prosecutorial strategy. If the material has shed an embarrassing light on government policy and policy makers, we can only say that the documents speak for themselves.

With regard to your statement "you requested a particular document from the RTC last week even though it was apparently already in your possession," please be informed that when the request was initially made I did not have this document in my possession. [illegible] it might also be pointed out that the document you objected [illegible] fully [illegible] in a prior Washington Post story of November 11, 1993, a story which did not originate from my office. To assert that the public release of a document already widely reported "could have a deleterious effect on [y]our investigations," is simply not credible.

So that there is no misunderstanding, I support certain decisions made under your leadership at the RTC. I am pleased that the RTC has hired outside counsel to advise the agency and that it has requested its own inspector general to reexamine issues surrounding the failure of Madison. I am also pleased that you have indicated your intent to cooperate fully with Special Counsel Fiske.

However, I remain concerned at the intransigence of RTC-Washington concerning document production and the recent reorganization effort which appears to reduce markedly the independence of regional RTC investigation units. I am particularly concerned about the new rules designed to take away regional independence that have been imposed in recent weeks as reported in the March 30, 1994 Kansas City Star (copy enclosed). The Star states: "For the first time the RTC criminal investigators, including those currently investigating Madison, are under supervision of lawyers in the agency's Professional Liability Section." Also reported are concerns of RTC employees that this change in procedure will politicize the criminal referral process, create potential conflicts of interest and be the "death of the RTC investigations division." Generally, there is a case for reorganizing any federal bureaucracy at any time. However, the timing and substance of the structural change raises questions that relate more to political independence than bureaucratic efficiencies.

As demonstrated in the remarkable independence of the San Francisco regional OTS office in its dispute with Washington authorities in the Keating matter, and as reflected in Kansas City's courageous investigation of Madison, it would appear that decentralized regional offices are more immune to political influence than Washington bureaucracies. Centralization of decision making carries in this circumstance apparent and unfortunate political overtones.

Sincerely,

James A. Leach
JAMES A. LEACH
Ranking Member

JL:bt

enclosures (2)

[redacted] Investigator L. Jean [redacted]imately 3:50 [redacted]

- April stated that "the people at the top" keep getting asked about Whitewater, which seems to have become a catch all phrase for Madison and it's related investigations. She said that eventually "this group" is going to have to make a statement about whether or not Whitewater caused a loss to Madison, but the fact that Whitewater had no loan at Madison provided less potential for a loss. April stated very clearly that Ryan and Kulka (?), the "head people", would like to be able to say that Whitewater did not cause a loss to Madison, but the problem is that so far no one has been able to say that to them. She felt like they wanted to be able to provide an "honest answer", but that there were certain answers that they would be "happier about, because it would get them off the hook."

- April felt that it would have been difficult to determine exactly what happened with the Whitewater account, because so many checks had gone in and out of the account, and made a reference to the end resulting netting itself out. She asked about Greg Young's work papers on the Maple Creek Farms reserve for development analysis, and how it didn't seem to have any apparent tie to Whitewater. I concurred that it didn't have any legitimately defined tie, which is precisely why it was included in the referral.

- She inquired about the $30,000 check to Jim McDougal from Whitewater in 5/85, and about the disposition of the funds. I explained the transaction as I know it: the $30,000 had been converted to a MGS&L cashier's check, which was subsequently endorsed by [redacted] and deposited to Riggs National Bank. I explained that when the check was force paid, the Whitewater account was overdrawn by over $28,000 which was then subsequently covered, by the payment of a $30,000 bonus from MFC to Jim McDougal, deposited directly to Whitewater on McDougal's orders.

- She asked how we could get to a clear cut answer as to whether or not Whitewater caused a loss to Madison. I stated that, as far as I am concerned, there is a clear cut loss. I also stated that any attempt to extract Whitewater as one entity from the rest of the McDougal controlled entities involved in the alleged check kite will distort the entire picture. I further pointed out that I would produce the answers that were available, but that I would not facilitate providing "the people at the top" with the "politically correct answers just to get them off the hook".

- She asked questions about the specifics of the checks going through the Whitewater account. I stated that it appeared that the majority of the checks written out of the Whitewater account during the window time frame were going to other financial institutions to make loan payments. I also said that the referral focused only on a short time frame, but that if that same research were conducted for a two year period, it was my belief that the losses to Madison from the Whitewater account alone would easily exceed $100,000, given that $70,000 had gone out of the account during the six month window time frame. I further added that the end loss result from the entire scam, using all 12 companies/entities, would be hundreds of thousands of dollars in what were essentially unauthorized loans.

- I stated that if she wanted me to tell her, unequivocally, that Whitewater didn't cause a loss, I could not do that. I could only reiterate the allegations contained in the referral, which are based on fact, and that it is my opinion and belief that Whitewater did, in fact, cause a loss to Madison because of the amount of the unauthorized loans that McDougal made, through the check kite, to entities in which he was a primary party and beneficiary. I also pointed out that this ultimately benefited his business partners - the same business partners that knew they had real estate ventures that were not cash flowing, but that also knew their mortgages and/or notes were somehow being paid. I pointed out that these business partners are intelligent individuals, the majority of them being attorneys, who must have concluded that McDougal was making the payments for their benefit. I posed the question to her, if you know that your mortgages are being paid, but you aren't putting money into the venture, and you also know the venture isn't cash flowing, wouldn't you question the source of the funds being used to your benefit? Would you just assume that your partner was making these multi-thousand dollar payments out of the goodness of his heart? Wouldn't you wonder even more if you knew that your business partner's main source of income, an S&L, was in serious financial difficulty, which by 1985 was fairly common knowledge?

We discussed the initiation of the MGSL investigation, and how evidence of the check kite came to light. I explained that after reviewing a series of checks, all of which noted "loan" in the memo field, I discerned a pattern that looked like a check kite, and proceeded to trace funds through the various accounts, which is a standard investigations procedures. The end result was the referral alleging a massive check kite. I also advised April that I had been told by both the U.S. Attorney's office (Mac Dodson), and the FBI (Steve Irons) that this was a highly prosecutable case of check kiting. I also told her that I disputed the declination of that referral on the basis of "insufficient information". She commented that "that's what Grand Juries are for", and I pointed out that it generally seemed to be the policy of the U.S. Attorney to agree to open a case before they would start Grand Jury proceedings. I also noted that I found the treatment of that particular referral by the Justice Department to be highly unusual. This concluded our discussion.

94 13:39 KANSAS CITY STAR

Nation

Wednesday, March 30, 1994
The Kansas City Star A-7

Thrift investigators criticize effort to streamline RTC

Some say new rule putting them under charge of agency's civil lawyers raises conflict issue.

By MIKE McGRAW
and JEFF TAYLOR
Staff Writers

A new rule that lawmakers hoped would give the government more time to scrutinize Madison Guaranty Savings & Loan — the failed Arkansas thrift at the center of the Whitewater scandal — is drawing heavy flak from some thrift investigators.

Last month, the Resolution Trust Corp. received a two-year extension on the time it has to file civil fraud actions against failed savings and loans. The reform, which was opposed by the Clinton administration last year, applies to all failed thrifts but takes on added urgency because of the Whitewater investigation.

Without the extension, the RTC would have had to file civil charges against Madison Guaranty by Feb. 28.

But as part of that broad effort to streamline the RTC, criminal investigators this week began reporting to a branch of the agency that has been accused by investigators in Kansas City and elsewhere of stalling the Whitewater investigation.

For the first time, the RTC's criminal investigators, including those currently investigating Madison, are under supervision of lawyers in the agency's Professional Liability Section.

The change was intended to correct RTC management problems raised in recent congressional hearings, but several agency sources claim that the PLS comprises the "political arm" of the RTC. "This is the death of the RTC investigations division," warned one senior agency criminal investigator.

Other RTC sources say the move at least is a potential conflict of interest. They point out that a PLS lawyer pursuing a civil case against a thrift official could be in the position to send a criminal referral to the Justice Department if the civil case were not settled — an action some RTC lawyers viewed as a form of extortion.

Tom Burnside, a former PLS lawyer now in private practice in St. Louis, said traditionally there was a clear wall separating criminal investigators from the civil lawyers at PLS.

Anne Freeman, an RTC spokeswoman in Washington, said agency officials would not respond to claims that lawyers in the Professional Liability Section might be in a position to impede investigations for political reasons.

The dispute between investigators and PLS lawyers, who pursue civil claims against officials of defunct thrifts, came to a head recently when Kansas City investigators claimed the PLS lawyers and others pressured them to alter or suppress findings in the Whitewater case.

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

April 4, 1994

MEMORANDUM TO: Tim Mitchell

MEMORANDUM FROM: Peter Knight PK

SUBJECT: Madison Guaranty Documents

Enclosed are some additional documents relating to Madison Guaranty that the Office of Governmental Relations has recently received from the FOIA group and the RTC reading room.

In addition you will find a "Madison Guaranty Document Index" which was produced by the RTC's Reading Room. As you are aware, all public documents relating to Madison Guaranty are being released by the RTC today. To our knowledge, you have already received copies of all the documents on the index. However, if there are any documents listed on the index that have inadvertently not been released to your office and you would like copies of them please contact Ms. Casey Carter.

801 17th Street, N.W. Washington, D.C. 20434

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Resolving The Crisis
Restoring The Confidence

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OFFICE OF GOVERNMENTAL RELATIONS
RTC

April 13, 1994

Honorable Jim Leach
Ranking Minority Member
Committee on Banking, Finance
and Urban Affairs
House of Representatives
Washington, D.C. 20515

Re: Freedom of Information Act Appeal No. RTC-94-A014

Dear Mr. Leach:

This will acknowledge receipt of your letter, dated April 11, 1994, appealing the Resolution Trust Corporation's ("RTC") response to your request for information pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, as amended. In your letter, you request a response from the RTC by Wednesday, April 13, 1994. Please be advised that the statute sets a twenty business day period after the receipt of an appeal within which the agency is required to respond. 5 U.S.C. § 552a(6)(A)(ii), see also 12 C.F.R. § 1615.7(b). However, I assure you, we will make every effort to respond to your appeal prior to the twenty days allowed by the statute.

Sincerely,

Ellen B. Kulka
General Counsel

cc: Office of the Secretary

801 17th Street, N.W. Washington, D.C. 20434

HENRY B. GONZALEZ, TEXAS, CHAIRMAN
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[illegible]

April 11, 1994

RECEIVED
APR 21 1994
OFFICE OF GOVERNMENTAL RELATIONS
RTC

Ellen B. Kulka, Esq.
General Counsel
Resolution Trust Corporation
801 17th Street, N.W., Rm. 1025
Washington, D.C. 20434

Office of the Secretary
FOIA/PA Branch
International Place
1735 North Lynn Street
Rosslyn, VA 22209

Re: Freedom of Information Act/Privacy Act Appeal

Dear Ms. Kulka:

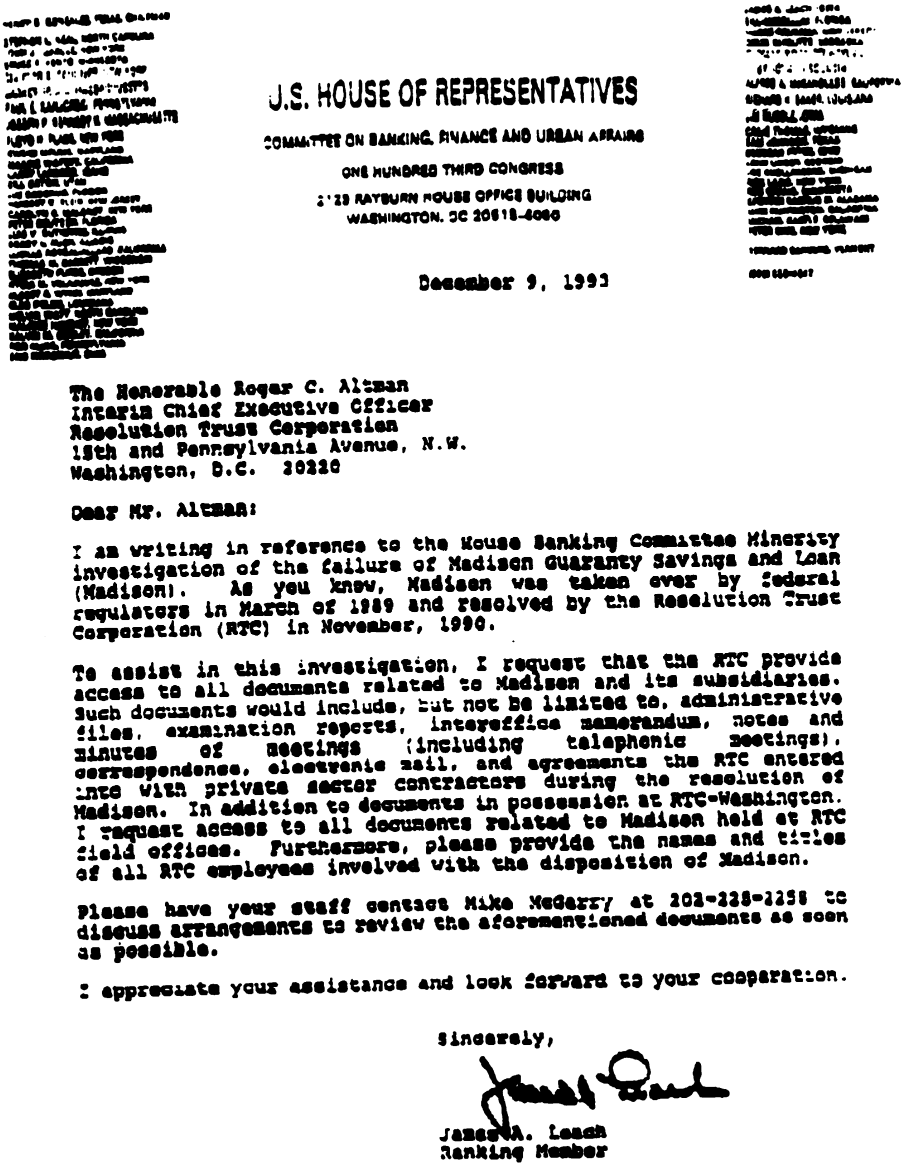
Pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. §552, and C.F.R. §1615.7, please consider this letter to be an appeal from the denial by the Resolution Trust Corporation ("RTC") of my request for documents that are in the possession of the RTC and related to Madison Guaranty Savings and Loan and it subsidiaries. The nature of the documents requested and the reasons, I believe denial is in error are set out in the correspondance attached hereto.

Given the extensive correspondance that has already occurred on these issues, I respectfully request that I be advised of the disposition of my appeal no later than noon on Wednesday, April 13, 1994.

Sincerely,

James A. Leach
Ranking Member

Attachments
cc: Mr. Roger Altman
Interim Chief Executive Officer
Resolution Trust Corporation



U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
ONE HUNDRED THIRD CONGRESS
2129 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6050

December 9, 1993

The Honorable Roger C. Altman
Interim Chief Executive Officer
Resolution Trust Corporation
18th and Pennsylvania Avenue, N.W.
Washington, D.C. 20226

Dear Mr. Altman:

I am writing in reference to the House Banking Committee Minority investigation of the failure of Madison Guaranty Savings and Loan (Madison). As you know, Madison was taken over by federal regulators in March of 1989 and resolved by the Resolution Trust Corporation (RTC) in November, 1990.

To assist in this investigation, I request that the RTC provide access to all documents related to Madison and its subsidiaries. Such documents would include, but not be limited to, administrative files, examination reports, interoffice memorandum, notes and minutes of meetings (including telephonic meetings), correspondence, electronic mail, and agreements the RTC entered into with private sector contractors during the resolution of Madison. In addition to documents in possession at RTC-Washington, I request access to all documents related to Madison held at RTC field offices. Furthermore, please provide the names and titles of all RTC employees involved with the disposition of Madison.

Please have your staff contact Mike McGarry at 202-226-2258 to discuss arrangements to review the aforementioned documents as soon as possible.

I appreciate your assistance and look forward to your cooperation.

Sincerely,

James A. Leach
Ranking Member

[illegible]

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
ONE HUNDRED THIRD CONGRESS
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WASHINGTON, DC 20515-6050

[illegible]

February 3, 1994

Mr. Roger C. Altman
Interim CEO
Resolution Trust Corporation
801 17th Street, NW
Washington, DC 20434

Dear Mr. Altman:

I am in receipt of your February 1, 1994 response to the letter initiated by Senate Republican leadership concerning Madison Savings and Loan and I am pleased to learn that the RTC "will vigorously pursue all appropriate remedies" with regard to Madison's failure. It seems self-apparent that in order for the RTC to pursue vigorously all remedies it must have all relevant information at its disposal. Accordingly, I urge the RTC to seek and review all Whitewater Development Corporation documents turned over by the White House to the Justice Department.

In its investigation of Madison, the Minority has uncovered links between Madison and Whitewater, some of which may have contributed to the thrift's failure. Not only did James and Susan McDougal hold significant ownership interest in both entities (approximately two thirds in Madison and one half in Whitewater), but the other joint owners of Whitewater (Bill and Hillary Clinton) appear to have benefited directly and indirectly from the application of Madison resources. [See the attached memo.]

If the White House chooses to use the Justice Department to shield Whitewater documents not only from the public and Congress, but from other government agencies, such as the RTC, which have legitimate public law enforcement responsibilities, it is hard to believe a responsible resolution of the issues involved can be made by regulatory authorities.

I have high regard for your personal integrity, but as you know, from the beginning, it has been an awkward situation to have a presidentially appointed and confirmed officer of the Treasury Department also head an independent federal agency, the Resolution Trust Corporation (RTC). When this prospect was first suggested at the beginning of the Clinton Administration, it did

not strike the Minority as overly unreasonable for a month or two given the fact that no RTC head had been selected.

However, it has been over a year since the Administration has been in office and it can only be described as structurally unseemly for a political appointee of an Executive branch department to make what are in effect, law enforcement decisions for an independent federal agency as they may touch upon the President.

Accordingly, I would urge that you request from the Department of Treasury's General Counsel and Ethics Office advice as to whether you, as interim CEO of the RTC, are obligated to recuse yourself from any decisions concerning the resolution of Madison Guaranty. Just as the special counsel law was designed to relieve the Attorney General from an ethical dilemma of being both chief law enforcement officer for the nation and chief legal adviser to the President in circumstances when the President or a high level Administration officer is the subject of investigation, so it would appear ethically questionable for a political appointee of the Department of Treasury to make decisions for an independent federal agency when the President may be implicated in enforcement and civil actions.

In this regard, it should be clear that the issue is not whether a presidentially appointed official can oversee an investigation involving the President. Rather the issue is that officials with this responsibility should be confirmed for the job with that particular accountability. As you will recall it was a political appointee confirmed by the Senate that issued a cease and desist order for engaging in conflicts of interest against the son of a former President.

As you know, despite your strong letter to the Chairman of the House Banking Committee recommending against extension, Congress last year extended the statute of limitations for civil lawsuits brought against S&L wrongdoers. As you pointed out in your most recent letter, this extension "has afforded the RTC an opportunity to investigate further any civil claims which may be asserted against individuals or entities associated with Madison Guaranty for fraud, intentional misconduct resulting in unjust enrichment, or intentional misconduct resulting in substantial loss to the institution." Given, however, the impending running of the statute of limitations for certain kinds of actions, time is clearly of the essence for the RTC to make judgments about civil accountability in the failure of Madison.

Finally, I would like to reiterate my request, pursuant to Rules X and XI of the House Rules for all documents related to Madison Guaranty Savings and Loan, Little Rock, Arkansas. As you know,

on December 9, 1993, I wrote the RTC requesting access to all documents related to Madison Guaranty and its subsidiaries.

House and Committee Rules, House practices, and judicial precedent support the proposition that the Ranking Minority Member is the functional counterpart to the Chairman for Committee action. This being the case, a request for documents made by the Ranking Minority Member has parallel standing with a request made by the Chairman of the Committee. The Ranking Minority Member clearly has a voice in the process and is entitled to information that will enable the Ranking Minority Member to carry out his constitutionally mandated oversight responsibilities.

Therefore, the courtesy of a definitive reply to this document request is requested by 12 noon, Monday, February 7, 1994. On this matter, it is urged that you also consult with the Ethics Office as to the relevance of the previously discussed recusal issue.

Again, let me stress that to the degree a conflict situation may exist in this matter in no way reflects on your personal integrity. It is simply an awkward circumstance in contrast to a personal embarrassment.

Sincerely,

JAMES A. LEACH
Ranking Member

JAL:gp

Enclosure

[illegible]

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
ONE HUNDRED THIRD CONGRESS
2129 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6050

[illegible]

March 8, 1994

John E. Ryan
Deputy Chief Executive Officer
Resolution Trust Corporation
801 - 17th Street, N.W.
Washington, D.C. 20434

Dear Mr. Ryan:

I am writing in reference to the House Banking Committee's statutorily mandated, semi-annual RTC Oversight Hearings which are scheduled for the end of March. As you know, a major area of oversight at these hearings will be the failure and resolution of Madison Guaranty Savings and Loan, Little Rock, Arkansas. Madison was taken over by federal regulators in March of 1989 and resolved by the Resolution Trust Corporation (RTC) in November, 1990.

As ranking Member of the House Banking Committee, I request that the RTC provide the Committee with access to all documents related to madison and its subsidiaries. Members of the Committee will need access to this material to prepare for the upcoming hearings and to perform their ongoing oversight responsibilities. (As I am sure you are aware, documents provided to the Ranking Member are available to the Committee as a whole under the Committee rules.) The documents requested would include, but not be limited to, administrative files, examination reports, interoffice memorandum, notes and minutes of meetings (including telephonic meetings), correspondence, electronic mail, and agreements the RTC entered into with private sector contractors during the resolution of Madison. In addition to documents in possession at RTC-Washington, I request access to all documents related to Madison held at RTC field offices. Furthermore, please provide the names and titles of all RTC employees involved with the disposition of Madison.

Please have your staff contact Joe Seidel at (202)226-3241 or Mike McGarry at (202)225-2258 to discuss arrangements to review the aforementioned documents as soon as possible. As you are aware, I have previously requested access to these documents for use in performing other

Committee functions. My final letter concerning that request, was forwarded yesterday, March 7, 1994. If the agency decides to comply with that request, we will, of course, consider this request satisfied as well.

I appreciate your assistance and look forward to your cooperation.

Sincerely,

James A. Leach
Ranking Member

JAL:jls

cc: Henry B. Gonzalez
Chairman
Committee on Banking Finance
and Urban Affairs
2413 Rayburn House Office Building
Washington, DC 20515

[illegible] TRUST CORPORATION
[illegible]

March 11, 1994

Honorable Jim Leach
Ranking Minority Member
Committee on Banking, Finance
[illegible]
[illegible]tives
[illegible] D.C. 20515

[illegible]

I am writing in response to your letters dated March 7 and 8, 1994, reiterating your request that the RTC provide certain documents and records as part of your investigation of the failure of Madison Guaranty Savings and Loan. Your March 7th letter was in response to our earlier letter of February 7, 1994, in which we indicated that unfortunately the RTC could afford you no greater access than would be available to the general public under the Freedom of Information Act. I note that the March 8th letter requested that some of the same information previously requested be supplied to you in conjunction with the up-coming semiannual RTC Oversight Board Hearings.

Regarding your letter of March 8, 1994, I have just received the enclosed letter dated March 10, 1994, from Chairman Gonzalez indicating that the Committee is not conducting an investigative hearing. Therefore, the records request was made in your individual capacity as a member of Congress and not on behalf of the Committee.

We are unable to concur with your conclusion that an individual member of Congress has the legal right to unlimited access to any agency record, regardless of its privileged or confidential status. Consequently, we will continue to provide you with documents or portions of documents that would be available to the public. Although this may be deemed to be a final agency determination of the status of your request for access to RTC records, let me assure you that the RTC is making every effort to cooperate with you and will continue to make documents available to your staff as they have been reviewed for public disclosure. [illegible] documents were sent to your staff this week.

[illegible]

[redacted]

Your letter indicated you wanted to know what further recourse you had to obtain "access to this information (under the terms of the FOIA or otherwise)." A party, who has been denied access to records pursuant to the FOIA, has the right to appeal that decision within thirty days of the initial denial to the Office of the RTC's General Counsel (12 C.F.R. § 1615.7).

We hope this information is of assistance to you.

Sincerely,

John E. Ryan
Deputy CEO

[redacted]

[redacted]

[illegible]

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
ONE HUNDRED THIRD CONGRESS
2129 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6050

[illegible]

March 7, 1994

Mr. John E. Ryan
Deputy CEO
Resolution Trust Corporation
15th & Pennsylvania Avenue, N.W.
Washington, DC 20220

Dear Mr. Ryan:

As you are aware, on December 9, 1993, I requested your agency to provide the House Banking Committee with access to documents concerning Madison Guaranty Savings and Loan and its subsidiaries. I was very disappointed to receive your letter of February 7, 1994, asserting that you could only provide me with documents available to any member of the public under the Freedom of Information Act. As we have previously informed you, the D.C. Circuit has specifically held that even if disclosure is made to an individual member of Congress acting in an official capacity, an agency does not thereby waive the privileged status of its documents. See Murphy v. Department of the Army, 613 F. 2d 1151 (D.C. Cir. 1979). As you know, I have in fact requested that the information be made available to me for use by the Banking Committee as a whole. The Murphy decision leaves no doubt that disclosure for these purposes does not constitute a waiver of agency privileges. Despite my staff's offer to discuss appropriate terms regarding confidentiality for specific documents, you have nevertheless denied access to all non-public information.

The agency's position requires me to consider resort to other measures for obtaining access to this information, which is urgently needed for the performance of Committee functions. I would accordingly appreciate it if you would confirm by letter on or before March 11, that you do not intend to comply with this request for information, and that I do not have any further recourse within the agency for obtaining access to this information (under the terms of FOIA or otherwise).

Mr. Ryan
Page Two
March 7, 1994

I appreciate your assistance and hope that the agency will reconsider its position and now provide the cooperation that is required under the circumstances.

Sincerely,

James A. Leach
Ranking Member

JAL:jled

cc: General Counsel
Office of the Secretary
FOIA/PA Branch
International Place
1735 North Lynn Street
Rosslyn, VA 22209

The Honorable Henry B. Gonzalez
Chairman
Committee on Banking, Finance
and Urban Affairs
2413 Rayburn House Office Building
Washington, DC 20515

R .3329
cc: Standard Distribution
Mr. Adair
Ms. Hinton
Ms. Carter

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

May 2, 1994

Ms. Kelly D. Johnston
Staff Director
Republican Policy Committee
United States Senate
Washington, D.C. 20510

Dear Ms. Johnston:

As requested in your letter of April 20, **the RTC is furnishing the approximately 8,000 pages of documents** relating to Madison-**Whitewater./** These documents are contained in the two boxes being delivered with this letter.

We hope this information is of assistance to you. If you have any questions, please let me know.

Sincerely,

Peter E. Knight
Director
Office of Governmental Relations
(202) 416-7314

Enclosures

801 17th Street, N.W. Washington, D.C. 20434

103D CONGRESS
2D SESSION

S. RES. ____

IN THE SENATE OF THE UNITED STATES

Mr. D'AMATO (for himself ____________ ____) submitted the following resolution; which was ____

RESOLUTION

Establishing a special subcommittee within the Committee on Banking, Housing, and Urban Affairs to conduct an investigation into allegations concerning the Whitewater Development Corporation, Madison Guaranty Savings and Loan Association, and Capital Management Services, Inc., and other related matters.

Resolved,

ESTABLISHMENT OF THE SPECIAL SUBCOMMITTEE

SECTION 1. (a) There is established a special subcommittee within the Committee on Banking, Housing, and Urban Affairs to be known as the Special Subcommittee on Certain Allegations Concerning Whitewater Development Corporation, Madison Guaranty Savings and Loan Association, and Capital Management Services, Inc., and Related Issues (hereafter in this resolution referred to as the "special subcommittee").

(b) The purpose of the special subcommittee is—

(1) to conduct an investigation into, and study of, all matters which have any tendency to reveal the full facts about—

(A) the operations, solvency, and regulation of Madison Guaranty Savings and Loan Association, including the alleged use of federally insured funds as campaign contributions;

(B) the relationship among Madison Guaranty Savings and Loan Association, other federally insured institutions, and Whitewater Development Corporation;

(C) the management and business activities of Whitewater Development Corporation and its shareholders, including issues of personal, corporate, and partnership tax liability;

(D) the policies of the Resolution Trust Corporation, Federal banking agencies, and other Federal regulatory agencies regarding legal representation of the agencies, including conflicts of interest and cost controls;

(E) the independence of the Resolution Trust Corporation, Federal banking agencies, and other Federal regulatory agencies, including any improper contacts among officials of the White House, the Department of the Treasury, the Resolution Trust Corporation, the Office of Thrift Supervision, and any other Federal agency;

(F) the Resolution Trust Corporation's internal handling of the criminal referrals concerning Madison Guaranty Savings and Loan Association;

(G) the pursuit by the Resolution Trust Corporation of civil causes of action against potentially liable parties associated with Madison Guaranty Savings and Loan Association;

(H) the pursuit by the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, and the Federal Savings and Loan Insurance Corporation of administrative and civil causes of action against potentially liable parties associated with Madison Guaranty Savings and Loan Association;

(I) the Department of Justice's handling of the Resolution Trust Corporation's criminal referrals relating to Madison Guaranty Savings and Loan Association;

(J) the delayed recusal of the United States Attorney for the Eastern District of Arkansas from the investigation or prosecution of David Hale, Capital Management Services, Inc., and Whitewater Development Corporation;

(K) the sources of funding and the lending practices of Capital Management Services, Inc., and its supervision and regulation by the Small Business Administration, including loans to Susan McDougal and the alleged diversion of funds to Whitewater Development Corporation;

(L) the Park Police investigation into the death of White House Deputy counsel Vincent Foster;

(M) the operations and underwriting activities of the Arkansas Development Finance Authority;

(N) the circumstances surrounding and the propriety of the commodities-futures trading activities of Hillary Rodham Clinton;

(O) the investment activities of Value Partners I, including the compliance of these activities with Federal laws governing conflicts of interest;

(P) any other issues related to the matters referred to in subparagraphs (A) through (O); and

(Q) any issues developed during, or arising out of, the hearings conducted by the special subcommittee; and

(2)(A) to make such findings of fact as are warranted and appropriate;

(B) to make such recommendations, including recommendations for new legislation and amendments to existing laws and any administrative or other actions, as the special subcommittee may determine to be necessary or desirable; and

(C) to fulfill the Constitutional oversight and informing function of the Congress with respect to the matters described in this section.

(c) For purposes of this section, the term "Madison Guaranty Savings and Loan Association" includes any subsidiary company, affiliated company, or business owned or controlled, in whole or in part, by Madison Guaranty Savings and Loan Association, its officers, directors, or principal shareholders.

MEMBERSHIP AND ORGANIZATION OF THE SPECIAL SUBCOMMITTEE

SEC. 2. (a)(1) The special subcommittee shall consist of—

(A) 5 members of the Committee on Banking, Housing, and Urban Affairs appointed by the chairman;

(B) 5 members of the Committee on Banking, Housing, and Urban Affairs appointed by the ranking member;

(C) 3 members of the Senate appointed by the President pro tempore of the Senate from the majority party of the Senate upon the recommendation of the Majority Leader of the Senate; and

(D) 3 members of the Senate appointed by the President pro tempore of the Senate from the minority party of the Senate upon the recommendation of the Minority Leader of the Senate.

(2) Vacancies in the membership of the special subcommittee shall not affect the authority of the remaining members to execute the functions of the special sub-

committee and shall be filled in the same manner as original appointments to it are made.

(3) For the purpose of paragraph 4 of rule XXV of the Standing Rules of the Senate, service of a Senator as a member of the special subcommittee shall not be taken into account.

(b)(1) The chairman and ranking member of the Committee on Banking, Housing, and Urban Affairs shall be cochairmen of the special subcommittee.

(2) A majority of the members of the special subcommittee shall constitute a quorum for reporting a matter or recommendation to the Senate, except that a quorum shall not be necessary for the purpose of taking testimony before the special subcommittee or for conducting the other business of the special subcommittee.

(c)(1) The special subcommittee shall promptly adopt appropriate rules and procedures consistent with this resolution.

(2) The rules and procedures of the special subcommittee shall—

(A) govern the proceedings of the special subcommittee; and

(B) consistent with section 6 of this resolution—

(i) provide for the security of the records of the special subcommittee; and

(ii) prevent the unauthorized disclosure of information and materials obtained by the special subcommittee in the course of its investigation and study.

STAFF OF THE SPECIAL SUBCOMMITTEE

SEC. 3. (a)(1) Committee staff from committees having jurisdiction over matters described in section 1(b) shall be detailed to the special subcommittee, subject to availability, as requested by the cochairmen.

(2) In addition to staff detailed pursuant to paragraph (1) and to assist the special subcommittee in its investigation and study, the cochairmen, after approval of the special subcommittee, may appoint special subcommittee staff.

(3) All staff detailed pursuant to paragraph (1) or appointed pursuant to paragraph (2) shall work for the special subcommittee as a whole, shall report to the two cochairmen and, except as otherwise provided by the special subcommittee, shall be under the direction of the cochairmen.

(b) To assist the special subcommittee in its investigation and study, the Senate Legal Counsel and Deputy Senate Legal Counsel shall work with and under the jurisdiction and authority of the special subcommittee.

(c) The Majority and Minority Leaders of the Senate may each designate one staff person to serve on the staff of the special subcommittee to serve as their liaison to the special subcommittee.

(d) The Comptroller General of the United States is requested to provide from the General Accounting Office whatever personnel, investigatory, material, or other appropriate assistance may be required by the special subcommittee.

PUBLIC ACTIVITIES OF THE SPECIAL SUBCOMMITTEE

SEC. 4. (a) Consistent with the rights of persons subject to investigation and inquiry, the special subcommittee shall make every effort to fulfill the right of the public and the Congress to know the essential facts and implications of the activities of officials of the United States Government and other persons and entities with respect to the matters under investigation and study as described in section 1.

(b) In furtherance of the public's and Congress' right to know, the special subcommittee—

(1) shall hold, as either cochairman considers appropriate, open hearings on specific subjects, subject to consultation and coordination within the independent counsel appointed pursuant to chapter 28, part 600, of the Code of Federal Regulations (referred to as the "independent counsel");

(2) may make interim reports to the Senate as it considers appropriate; and

(3) shall make a final comprehensive public report to the Senate which contains a description of all relevant factual determinations consistent with subsection (a) of this section and section 1(b)(2) and which contains recommendations for new legislation, if necessary.

POWERS OF THE SPECIAL SUBCOMMITTEE

SEC. 5. (a) The special subcommittee shall do everything necessary and appropriate under the laws and Constitution of the United States to make the investigation and study specified in section 1.

(b) The special subcommittee is authorized to issue subpoenas for obtaining testimony and for the production of documentary or physical evidence. A subpoena may be authorized and issued by the special subcommittee, acting through either cochairman or any other member designated by either cochairman, and may be served by any person designated by either cochairman or other member anywhere within or without the borders of the United States to the full extent permitted by law. Either cochairman of the special subcommittee, or any other member thereof, is authorized to administer oaths to any witnesses appearing before the subcommittee.

(c) The special subcommittee is authorized to do the following:

(1) To employ and fix the compensation of such clerical, investigatory, legal, technical, and other assistants as the special subcommittee considers necessary or appropriate.

(2) To sit and act at any time or place during sessions, recesses, and adjournment periods of the Senate.

(3) To hold hearings, take testimony under oath, and to receive documentary or physical evidence relating to the matters and questions it is authorized to investigate or study.

(4) To request a grant of immunity under section 6005 of title 18, United States Code, after consultation with the independent counsel.

(5) To require by subpoena or order the attendance, as witnesses before the special subcommittee or at depositions, of any person either cochairman determines may have knowledge or information concerning any of the matters the special subcommittee is authorized to investigate and study.

(6) To take depositions and other testimony under oath anywhere within the United States, to issue orders by either cochairman or any other mem-

ber designated by either cochairman which require witnesses to answer written interrogatories under oath, and to make application for issuance of letters rogatory.

(7) To issue commissions and to notice depositions for staff members to examine witnesses and to receive evidence under oath administered by an individual authorized by local law to administer oaths. The special subcommittee, acting through either cochairman, may authorize and issue, and may delegate to designated staff members the power to authorize and issue, commissions and deposition notices.

(8) To require by subpena or order—

(A) any department, agency, entity, officer, or employee of the United States Government,

(B) any person or entity purporting to act under color or authority of State or local law, or

(C) any private person, firm, corporation, partnership, or other organization,

to produce for its consideration or for use as evidence in the investigation or study of the special subcommittee any book, check, canceled check, correspondence, communication, document, financial record, paper, physical evidence, photograph, record, recording, tape, or any other material relating to any of the matters or questions such subcommittee is authorized to investigate and study which they or any of them may have in their custody or under their control.

(9) To make to the Senate any recommendations, including recommendations for criminal or civil enforcement, which the special subcommittee may consider appropriate with respect to—

(A) the willful failure or refusal of any person to appear before it, or at a deposition, or to answer interrogatories, in obedience to a subpoena or order;

(B) the willful failure or refusal of any person to answer questions or give testimony during his appearance as a witness before such subcommittee, or at a deposition, or in response to interrogatories; or

(C) the willful failure or refusal of—

(i) any officer or employee of the United States Government,

(ii) any person or entity purporting to act under color or authority of State or local law, or

(iii) any private person, partnership, firm, corporation, or organization,

to produce before the subcommittee, or at a deposition, or at any time or place designated by the subcommittee, any book, check, canceled check, correspondence, communication, document, financial record, paper, physical evidence, photograph, record, recording, tape, or any other material in obedience to any subpoena or order.

(10) To procure the temporary or intermittent services of individual consultants, or organizations thereof.

(11) To use on a reimbursable basis, with the prior consent of the Government department or agency concerned, the services of personnel of such department or agency;

(12) To use, with the prior consent of the chairman or ranking member of any other Senate committee or the chairman or ranking member of any subcommittee of any committee of the Senate, the facilities or services of the appropriate members of the staff of such other Senate committee whenever the special subcommittee or either cochairman consider that such action is necessary or appropriate

to enable the special subcommittee to make the investigation and study provided for in this resolution.

(13) To have access through the agency of any members of the special subcommittee, staff director, chief counsel, or any of its investigatory assistants designated by either cochairman, to any data, evidence, information, report, analysis, document, or paper—

(A) which relates to any of the matters or questions which the special subcommittee is authorized to investigate or study;

(B) which is in the possession, custody, or under the control of any department, agency, entity, officer, or employee of the United States Government, including those which have the power under the laws of the United States to investigate any alleged criminal activities or to prosecute persons charged with crimes against the United States without regard to the jurisdiction or authority of any other Senate committee; and

(C) which will aid the special subcommittee to prepare for or conduct the investigation and study authorized and directed by this resolution.

(14) To report violations of any law to the appropriate Federal, State, or local authorities.

(15) To expend, to the extent the special subcommittee determines necessary and appropriate, any money made available to such subcommittee by the Senate to make the investigation, study, and reports authorized by this resolution.

(16) Under sections 6103(f)(3) and 6104(a)(2) of the Internal Revenue Code of 1986, to inspect and receive for the fiscal years 1977–1992 any tax return, return information, or other tax-related material, held by the Secretary of the Treasury, related to individuals and entities named by the special subcommittee as possible participants, beneficiaries, or intermediaries in the transactions under investigation.

(d) The level of compensation payable to any employee of the special subcommittee shall not be subject to any limitation on compensation otherwise applicable to an employee of the Senate. No employee of the special subcommittee may receive pay at a rate of pay in excess of the rate of pay payable for a position at level III of the Executive Schedule under section 5314 of title 5, United States Code.

PROTECTION OF CONFIDENTIAL INFORMATION

SEC. 6. (a) All staff members and consultants shall, as a condition of employment, agree in writing to abide by the conditions of an appropriate nondisclosure agreement promulgated by the special subcommittee.

(b) The case of any Senator who violates the security procedures of the special subcommittee may be referred to the Select Committee on Ethics of the Senate for the imposition of sanctions in accordance with the rules of the Senate. Any staff member or consultant who violates the security procedures of the special subcommittee shall immediately be subject to removal from office or employment with the special subcommittee or shall be subject to such other sanction as may be provided in the rules of the special subcommittee.

(c) Upon the termination of the special subcommittee pursuant to section 9 of this resolution, all records, files, documents, and other materials in the possession, custody, or control of the special subcommittee, under appropriate conditions established by such subcommittee, shall be transferred to the National Archives.

RELATION TO OTHER INVESTIGATIONS

SEC. 7. (a) In order to—

(1) expedite the thorough conduct of the investigation and study authorized by this resolution;

(2) promote efficiency among all the various investigations underway in all branches of the United States Government; and

(3) engender a high degree of confidence on the part of the public regarding the conduct of such investigation,

the special subcommittee is encouraged—

(A) to coordinate, to the extent practicable, its activities with the investigation of the independent counsel;

(B) to seek the full cooperation of all relevant investigatory bodies; and

(C) to seek access to all information which is acquired and developed by such bodies.

(b) The cochairmen shall meet with the independent counsel to obtain relevant information concerning the status of the independent counsel's investigation to assist in establishing a hearing schedule for the special subcommittee.

(c) The Senate requests that the independent counsel make available to the special subcommittee, as expeditiously as possible, all documents and information which may assist the special subcommittee in its investigation and study.

SALARIES AND EXPENSES

SEC. 8. Such sums as are necessary shall be available from the contingent fund of the Senate out of the Account for Expenses for Inquiries and Investigations for payment of salaries and other expenses of the special subcommittee under this resolution, which shall include sums which shall be available for the procurement of the services of individual consultants or organizations thereof, in accordance with section 5(c)(9). Payment of expenses shall be disbursed upon vouchers approved by either cochairman of the special subcommittee, except that vouchers shall not be required for the disbursement of salaries paid at an annual rate.

REPORTS; TERMINATION

SEC. 9. (a)(1) The special subcommittee shall make a final public report to the Senate of the results of the investigation and study conducted by such subcommittee pursuant to this resolution, together with its findings and any recommendations at the earliest practicable date.

(2) The final report of the special subcommittee may be accompanied by whatever [redacted] are necessary to protect confidential information.

(b) After submission of its final report, the special subcommittee shall conclude its business and close out its affairs as expeditiously as practicable.

SUBCOMMITTEE JURISDICTION AND RULE XXV

SEC. 10. The jurisdiction of the special subcommittee is granted pursuant to this resolution notwithstanding the provisions of paragraph 1 of rule XXV of the Standing Rules of the Senate relating to the jurisdiction of the standing committees of the Senate.

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

Karen L. Carmichael
Senior Attorney
Legal Division - PLS
7400 W. 110th., Suite 400
Overland Park, Kansas 66210
(913) 344-8100
Fax No.: (913) 344-8185
Direct Line: (913) 344-8438

INTEROFFICE MEMORANDUM

DATE: October 7, 1993

TO: Julie Fry Yanda, Counsel
Section Chief, PLS
Kansas City Office

FROM: Karen L. Carmichael, Senior Attorney, PLS
Legal Criminal Coordinator
Kansas City Office

Philip J. Adams, Senior Attorney, PLS
Kansas City Office

This Document is
13 pages in length.

R. Altman

Questions

1) When did Madison Guaranty collapse?

2) Tell us about the federal oversight of Madison before the collapse.

3) When did the RTC first turn its attention to Madison?

4) Who in the RTC was involved at the beginning?

5) Has the RTC ever uncovered any ties between Madison and Whitewater, or Madison and the Clintons? Only in the crim. referrals

6) When did the Madison matter first come to the attention of the RTC's Washington office? ? first referral & then 2d group

7) Why was the statute of limitations in this matter originally permitted to lapse?

8) Who made the decision to permit that? FDIC — who signed?

9) Why did the Clinton Administration oppose a retroactive extension of the statute of limitations in the RTC Completion Act? ? No longer needed — can't say that.

10) Did Madison Guaranty matters enter into that decision? No

11) Had Congress not just extended these limitations, what would the RTC have done on Madison before the Feb. 28 deadline? Concluded our invest / sought [illegible]

12) What were the internal RTC processes which led to the decision in October to refer this to the Justice Department? Crim referrals

13) Who was involved in that decision? ?

14) What is the RTC doing at this very moment to reach a decision on a civil claim?

15) Who at the RTC is doing that work?

16) When will a decision be reached?

17) Tell us about the documents which the RTC provided to Mr. Fiske.

18) What is the RTC doing to get those documents back?

19) How could the RTC make its decision without access to those documents?

20) What discussion with RTC staff have you personally had on Madison?

21) What discussions on it have you had with Secretary Bentsen?

22) What has he said to you about the Madison investigation?

23) Have you issued any instructions to RTC staff on this investigation? What were they?

24) What is being done to safeguard the RTC documents on this case?

25) Who made the decision to put Madison into conservatorship? FHLBB

26) Why was McDougal permitted to loot the institution the way he did? bk FSLIC

27) Wasn't that a dereliction of oversight? Who was responsible?

28) Do you think that the President and/or Mrs. Clinton have broken any laws in this matter?

29) Have they acted in an ethical fashion?

30) Aren't there, at the very least, appearances of impropriety on their part?

31) What should be done if it is ultimately determined that laws were broken?

32) Are you aware of the connections between the Rose Law Firm and Madison and/or Whitewater?

33) Has anyone at the RTC spoken to the President's attorney in this matter? Who has had that conversation? n.1

34) Why has the Treasury General Counsel been so active in this whole matter? She has no responsibilities at the RTC.

35) Will the Oversight Board play any role at all in RTC decisions on Madison? no

36) If the RTC were to file a claim in court against the Clinton, how would that work? What would the RTC seek, etc.? ?

INTEROFFICE MEMORANDUM RESOLUTION TRUST CORPORATION DIVISION OF LEGAL SERVICES	RESOLUTION TRUST CORPORATION 801 17th STREET, N.W. WASHINGTON, D.C. 20434-0001

MEMORANDUM TO: File/Madison Guaranty Savings & Loan Assoc.

FROM: Mark Gabrellian
Senior Counsel

DATE: April 6, 1994

SUBJECT: [redacted]

PRIVILEGED AND CONFIDENTIAL

1. [redacted]

2. Report on conference with counsel for Clintons

[redacted]

[redacted]

Attachment

CO 293 (Rev. 8/91) Subpoena to Testify Before Grand Jury

United States District Court

for the DISTRICT OF Columbia

TO:
Resolution Trust Corporation
Custodian of Records

SUBPOENA TO TESTIFY BEFORE GRAND JURY

SUBPOENA FOR:
☒ PERSON ☒ DOCUMENT(S) OR OBJECT(S)

YOU ARE HEREBY COMMANDED to appear and testify before the Grand Jury of the United States District Court at the place, date, and time specified below.

PLACE United States District Court for the District of Columbia United States Courthouse Third and Constitution Avenue, N.W. Washington, D.C. 20001	COURTROOM Grand Jury, Third Floor
	DATE AND TIME June 9, 1994 10:00 a.m.

YOU ARE ALSO COMMANDED to bring with you the following document(s) or object(s):*

See attached rider.

Personal appearance not required if the requested documents are delivered on or before the return date to Special Agent Dana Gillis at the Office of the Independent Counsel, 1001 Pennsylvania Avenue, N.W., Suite 490 North, Washington, D.C. 20004, telephone number (202) 514-8688, for submission to the Grand Jury.

☐ Please see additional information on reverse.

This subpoena shall remain in effect until you are granted leave to depart by the court or by an officer acting on behalf of the cou[illegible]

U.S. MAGISTRATE [illegible] OF COURT Nancy M. [illegible]er-Wh[illegible], Cl[illegible]	DATE 6/1/94 D44
(BY) DEPUTY C[illegible]	

This subpoen[illegible] upon application of the United St[illegible] of America	NAME, ADDRESS AND PHONE NUMBER OF ASSISTANT U.S. ATTORNEY Mark J. Stein Office of the Independent Counsel 1001 Pennsylvania Avenue, N.W., Suite 490N Washington, D.C. 20004 (202) 514-8688

*If not applicable, enter "none."

CO 293 (Rev. 8/91) Subpoena to Testify Before Grand Jury

RETURN OF SERVICE (1)

RECEIVED BY SERVER	DATE	PLACE
SERVED	DATE	PLACE

SERVED ON (PRINT NAME)

SERVED BY (PRINT NAME)	TITLE

STATEMENT OF SERVICE FEES

TRAVEL	SERVICES	TOTAL

DECLARATION OF SERVER(2)

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on ______________________ ______________________________
Date *Signature of Server*

____
Address of Server

ADDITIONAL INFORMATION

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(1) As to who may serve a subpoena and the manner of its service see Rule 17(d), Federal Rules of Criminal Procedure, or Rule 45(c), Federal Rules of Civi Procedure.

(2) "Fees and mileage need not be tendered to the witness upon service of a subpoena issued on behalf of the United States or an officer or agency thereof (Rule 45(c), Federal Rules of Civil Procedure; Rule 17(d), Federal Rules of Criminal Procedure) or on behalf of certain indigent parties and criminal defendants who are unable to pay such costs (28 USC 1825, Rule 17(b) Federal Rules of Criminal Procedure)".

SUBPOENA RIDER

A. Any and all documents and/or communications referring or relating to any contacts, meetings or conversations about or regarding Madison Guaranty Savings & Loan, its subsidiaries or affiliates, held between or among 1) any member of the White House staff or the staff of Hillary Rodham Clinton, including but not limited to Lisa Caputo, Mark Gearan, Harold Ickes, Bruce Lindsey, Bernard Nussbaum, George Stephanopoulos or Margaret Williams; and 2) any official or employee of the Department of the Treasury or the Resolution Trust Corporation, including but not limited to Roger Altman, Jack DeVore, Jean Hanson, or Josh Steiner. This includes, but is not limited to any documents and/or communications:

1. referring or relating to the arrangement, existence, substance or circumstances of any such meetings or conversations;
2. discussed or referred to in any such meetings or conversations;
3. exchanged between any member of the White House staff or the staff of Hillary Rodham Clinton, and any official or employee of the Department of the Treasury or the Resolution Trust Corporation at or in connection with any such meetings or conversations;
4. constituting notes taken at or referring to any such meetings or conversations;
5. summarizing, documenting or referring to all or any part of any such meetings or conversations.

B. Any and all documents and/or communications referring or relating to any criminal referrals made by the Resolution Trust Corporation about or regarding Madison Guaranty Savings & Loan, its subsidiaries or affiliates.

C. Any and all documents and/or communications dated between January 1, 1993 to the present, referring or relating to the pursuit of any civil claims by the Resolution Trust Corporation or an agent or representative of the Resolution Trust Corporation, relating to or having a connection with Madison Guaranty Savings & Loan, its subsidiaries or affiliates.

Definitions and Instructions

1. Definitions

a. The term "document" or "documents" as used in this subpoena means all records of any nature whatsoever within your possession, custody or control, or the possession, custody or control of any agent, employee, representative, or other person acting or purporting to act for or on your behalf or in concert with you, including but not limited to memoranda, records, reports, notes, books, files, summaries or records of conversations, meetings or interviews, summaries or records of telephone conversations, diaries, calendars, datebooks, telegrams, facsimiles, telexes, telefaxes, electronic mail, computerized records stored in the form of magnetic or electronic coding on computer media or on media capable of being read by computer or with the aid of computer related equipment, including but not limited to floppy disks or diskettes, disks, diskettes, disk packs, fixed hard drives, removable hard disk cartridges, mainframe computers, Bernoulli boxes, optical disks, WORM disks, magneto/optical disks, floptical disks, magnetic tape, tapes, laser disks, video cassettes, CD-ROMs and any other media capable of storing magnetic coding, microfilm, microfiche and other storage devices, voicemail recordings, and all other written, printed or recorded or photographic matter or sound reproductions, however produced or reproduced.

The term "document" or "documents" also includes any earlier, preliminary, preparatory or tentative version of all or part of a document, whether or not such draft was superseded by a later draft and whether or not the terms of the draft are the same as or different from the terms of the final document.

b. The term "communication" or "communications" is used herein in its broadest sense to encompass any transmission or exchange of information, ideas, facts, data, proposals, or any other matter, whether between individuals or between or among the members of a group, whether face-to-face, by telephone or by means of electronic or other medium.

c. "Possession, custody or control" means in your physical possession and/or if you have the right to secure or compel the production of the document or a copy from another person or entity having physical possession.

d. The term "referring or relating" to any given subject means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is in any manner whatsoever pertinent to that subject including, but not limited to, documents concerning the preparation of other documents.

2. Instructions

a. If any original document cannot be produced in full, produce such document to the extent possible and indicate specifically the reason for your inability to produce the remainder.

b. Documents shall be produced as they are kept in the usual course of business, as organized in the files.

c. File folders, labels and indices identifying documents called for shall be produced intact with such documents. Documents attached to each other should not be separated.

d. The originals of all documents and communications must be produced, as well as copies within your possession, custody or control.

e. In reading this rider, the plural shall include the singular and the singular shall include the plural.

f. The words "and" and "or" shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive. The use of the word "including" shall be construed without limitation.

g. In the event that any document called for by this subpoena is withheld on the basis of any claim of privilege or similar claim, that document shall be identified in writing as follows: (a) author; (b) the position or title of the author; (c) addressee; (d) the position or title of the addressee; (e) any indicated or blind copies; (f) date; (g) a brief description of the subject matter of the document; (h) number of pages; (i) attachments or appendices; (j) all persons to whom the document, its contents, or any portion thereof, has been disclosed, distributed, shown or explained; and (k) present custodian. Each basis you contend justifies the withholding of the document shall also be specified. With respect to those documents or records as to which you may claim privilege, or attorneys' work product, set forth as to each such document the basis for such claim, the identity of each person who has been privy to such communication reflected in the document and whether you will submit the document to the Court for an in camera determination as to the validity of the claim.

i. In the event that any document called for by this subpoena has been lost, destroyed, deleted, altered, or otherwise disposed of, that document shall be identified in writing as follows: (a) author; (b) the position or title of the author; (c) addressee; (d) the position or title of the addressee; (e) indicated or blind copies; (f) date; (g) a brief description of the subject matter of the document; (h) number of pages; (i) attachments or appendices; (j) all persons to whom the document, its contents, or any portion thereof, had been disclosed, distributed, shown or explained; (k) the date of the loss, destruction, deletion, alteration or disposal and the circumstances thereof; (l) the reasons, if any, for the loss, destruction, deletion, alteration or disposal and the person or persons responsible.

j. If any information or data is withheld because such information or data is stored electronically, it is to be identified by the subject matter of the information or data and the place or places where such information is maintained.

— [redacted]

— Letter to people about not talking to Treasury & to the World about Madison/Whitewater etc. (Legal & investigations)

[redacted]

INTEROFFICE MEMORANDUM **RESOLUTION TRUST CORPORATION** **LEGAL DIVISION**	**RESOLUTION TRUST CORPORATION** **801 17TH STREET, N.W.** **WASHINGTON, D.C. 20434-0001**

MEMORANDUM TO: Felisa Neuringer
Spokeswoman
Office of Corporate Communications

FROM: Michael C. Taylor Michael Taylor
Attorney
Litigation Section

DATE: March 19, 1992

SUBJECT: Information on the Clintons and the Rose Law Firm

Here is the information I collected last week on the Clintons and the Rose Law Firm.

1. The Legal Services Agreement between FDIC and the Rose Law Firm.

2. A list of cases on the old CMS system handled by the firm for FDIC and RTC.

3. A list of current cases on the RLIS system handled by the firm for RTC.

4. Information about McDougal and Madison Guaranty Savings & Loan Association sent to me from the North Central Regional Office. I understand the information was gathered as background for the congressional hearing in Hot Springs on March 14. The "Executive Summary of Preliminary Report" was prepared several years ago.

Post-it™ brand fax transmittal memo

To Carl F McGill	From L Gleich
Co. Legal	Co. Legal
Dept. 3116	Phone # 8756
Fax # 202-736-~~3097~~	Fax # 913-344-8401

Legal Services Agreement

This agreement is entered into this third day of October, 1990, by and between the Federal Deposit Insurance Corporation ("FDIC") and ROSE LAW FIRM ("Firm"). The Firm hereby agrees to represent the FDIC and the FDIC hereby agrees to retain Firm on the following terms:

1. GUIDE FOR LEGAL REPRESENTATION

The general responsibilities of the Firm, including reporting requirements and billing information, are set forth in the Guide for Legal Representation (Guide) dated 6/89, a copy of which is attached as Exhibit A and incorporated herein by this reference. It is the Firm's responsibility to ensure that the Guide is followed by each person who works on FDIC matters. FDIC periodically changes or modifies the Guide and may also issue clarifications and supplementary instructions, and the Firm hereby expressly agrees to be bound by any such changes, modifications, clarifications, and supplemental instructions. With respect to billing requirements, the Guide in effect on the first day of each billing period shall govern.

2. FDIC SPECIAL ISSUES

The nature of FDIC cases is such that legal issues of special significance develop on a recurring basis. These issues are identified on the Special Issues List, which is attached hereto as Exhibit B and incorporated herein by the reference. Firm should handle these cases as described in the Guide.

3. RATE STRUCTURE

The hourly rates for each attorney and para-professional in the Firm who is to work on FDIC matters is set forth on the Rate Structure, attached hereto as Exhibit C and incorporated herein by this reference. Personnel may be added to the list, but only by written mutual agreement of the Firm and FDIC.

Travel time is compensated at 50% of the Firm's regular billing rates, except for time spent on substantive work on a matter. It is, however, agreed that if the Firm is retained to represent FDIC on a matter which involves work outside of the Firms' normal trade area, retention of the Firm for that matter may be conditioned on a waiver of some or all of the charges for travel time or expenses.

4. DURATION, RENEWAL, AND TERMINATION

This Agreement shall remain in effect until October 3, 1992. FDIC may, however, terminate the representation by the Firm at any time without cause and without notice. Upon termination of this agreement and upon demand, Firm shall return all documents and files pertaining to FDIC matters, including any work product. The Firm expressly waives its right to any liens, including but not limited to statutory and possessory liens, and agrees to return all advances upon request and remit all collections promptly.

5. **BILLING**

The Firm shall prepare its bills in the format prescribed by the FDIC. The Firm shall also provide certain certifications with each of its bills. Until further notice, the billing format and certification shall be substantially in the form shown on Exhibits D and E, attached hereto and incorporated herein by this reference.

In addition to the billing guidelines set forth in the Guide, Firm agrees to the following:

A. FDIC will not pay for any costs relating to conversion of the Firms's computer programming to comply with FDIC fee bill processing or reporting requirements.

B. FDIC will not pay for secretarial or clerical overtime unless such overtime is occassioned by an emergency situation created by the FDIC. The firm understands that such situations will be unusual as such overtime is generally considered part of the Firm's normal overhead.

C. FDIC will not pay for charges relating to word processing or computer time except Westlaw or Lexis. FDIC will reimburse Firm for its actual charges for Westlaw and Lexis.

D. FDIC will pay for photocopying at actual cost, which will generally not exceed $.15 per page. When economically feasible, large copying projects should be sent out to a copying service. Clerical time for photocopying will not be paid.

E. FDIC will pay actual cost for facsimile transmissions. However, barring emergencies brought on by the FDIC, fax transmissions should be used with restraint.

F. Telephone, overnight mail, and delivery charges will be paid at actual cost. Overnight mail should be used with restraint. FDIC will not pay for ordinary postage charges.

For purposes of general coordination of administrative matters and as otherwise needed, the primary FDIC contact for the Firm will be the FDIC Regional Office for which the Firm does the majority of its work, unless another contact point is designated by the FDIC.

The Firm shall keep all of its billing records for at least three years from billing date. The Firm shall permit FDIC to conduct an audit or review of the Firm's billing procedures. Firm further agrees to provide additional information concerning its billing procedures and practices and other reports which the FDIC may request without charge.

6. **ANNUAL REPORT**

The Firm will provide the FDIC Regional Office for which it does the majority of its work with an Annual Report. The Firm will also provide a copy of its Annual Report to all other Regional Offices to which the Firm renders legal services during the year.

The Annual Report should include the following information:

A. An updated matrix that identifies the Firm members who are working on FDIC matters. The matrix should clearly set forth their:

1) state license
2) areas of expertise
3) years in practice
4) time with the Firm
5) status as partner, shareholder, or associate
6) FDIC billing rate.

B. An update of the initial conflicts report prepared by the Firm.

C. An identification all minority and women members or associates of the Firm, and which of them are assigned to FDIC matters.

D. Legal malpractice lawsuits pending against the firm.

E. An identification of any disciplinary action pending against any attorney in the firm.

Federal Deposit Insurance Corporation

by______________________________

[Firm] Rose Law Firm, a Professional Association

by______________________________

EXHIBIT A

[Guide For Legal Representation]

EXHIBIT B

SPECIAL ISSUES LIST

Agricultural and SBA
Bridge Bank
Bulk Sales
1823(e) and D'Oench Duhme
Estoppel
Executory Contracts/Leases
FBAT
FDIC as a Federal Agency
FOIA
FSLIC/FHLBB
FTCA
Guaranteed Loans
Hazardous and Toxic Waste
Jurisdiction
Lender Liability
Letters of Credit
Loan Participation
P & A Documentation
Punitive Damages
Privacy Act
Pro-Rata
Repos/Swaps
RICO
Securities Law
Tax Matters
Termination of Pension Plans
Termination of Receiverships
Trust Depts.

New issues arising that may be significant
Agency or no-agency status of FDIC as receiver
Ownership, sale or challenges to use of pledge powers
Constitutionality of any statute or other issues involving constitutional law.
Executory Contracts, Disaffirmance of
Issues that may generate publicity
Novel uses of 12 U.S.C. § 1823(e), D'Oench Duhme, and federal holder in due course doctrines.
Novel approaches to 12 U.S.C.§ 1819 (Fourth), FDIC's jurisdictional statute (dual capacity).
Suits involving FDIC executives, either as named parties or as deponents or witnesses.

EXHIBIT C

RATE STRUCTURE

HOURLY RATES FOR EACH ATTORNEY OR PROFESSIONAL
IN ROSE LAW FIRM TO WORK ON FDIC MATTERS

WEBB HUBBELL	$125.00
ALLEN BIRD	125.00
RICK DONOVAN	125.00
VINCE FOSTER	125.00
GARY SPEED	125.00
DAVID WILLIAMS	125.00
SARAH HOOD TEED	100.00
JESS ASKEW	110.00
AMY STEWART	110.00
SAM STRANGE	85.00
MICHAEL BOOKER	85.00
REBECCA JONES	40.00
B. J. CAMP	40.00

EXHIBIT D

BILL FORMAT

COVER PAGE:

[FIRM NAME]

Firm's Invoice Number ____________

Matter
Case Name: [If more than one case is included prepare a separate cover sheet for each]

Period Covered: [Only those cases or parts of cases supervised by a single FDIC attorney may be included under one cover sheet]

Thrift/Bank Name: [Only one institution may be included on each invoice]

Financial Institution Number:

Hours billed by Minorities and Women:

Total number of hours billed:

Total fees:

Amount of this bill including all disbursements:

================================

PAGE TWO:

[For Fees]

Date of Service	Description of Service	Name or Initials of Att'y	Approved Rate	Time Charged	Rate X Time
______	________		______	______	_____

[For Disbursements]

Date of Disbursement	Description of Disbursement	Amount Charged

EXHIBIT E

CERTIFICATION:

The disbursements charged do not include charges for overhead expenses, computer time, or preparation of fee bills. No meals have been charged unless the attorney is in travel status. Overtime expenses are charged only if the overtime work is attributable solely to an emergency situation created by the FDIC.

Charges for travel and meals have been incurred in a prudent manner. Fax, Lexis, Westlaw, telephone and photocopying are charged at cost. Legal research projects have been cleared with the FDIC attorney in charge. No charges have been included for bill preparation or other overheads, such as secretarial services, typing or filing. Underlying documentation for fees and disbursements will be retained for three years after payment for FDIC review.

[Firm]

by________________________________

FDIC
Federal Deposit Insurance Corporation
Washington, D.C. 20429
Legal Division

10 March 1992

MEMORANDUM TO: Earl McJett
Paralegal Specialist
Trial Litigation, RTC

FROM: James F. Egbert, Jr.
Case Management Specialist
Information Resource Management Unit

SUBJECT: Rose Lawfirm Request

Attached is a copy of the report you requested regarding the Rose lawfirm. All cases for the Resolution Trust Corporation have not been updated since 25 October 1991. If you have any questions regarding this report please feel free to contact me at 898-3749.

NAME: Earl McJett
DATE: 3/9/91
DEADLINE: ____________

CMS REPORT REQUEST FORM

TYPE OF REPORT: [ ] One Page Status Report [✓] List Report

***TYPE OF LITIGATION:** [✓] Litigation [ ] Bankruptcy

AIC INDICATOR: [✓] Active [✓] Inactive [✓] Closed

***CASE ID:** ____________
***CASE NAME:** ____________
***FIN:** ____________ **FIN NAME:** ____________

SORTED BY: Matter name (Name of Field)
SECONDARY SORT: ____________

FIELDS NEEDED ON LIST REPORT:

Matter name	FIN name	
CMS Number	Date assigned	
FIN number	Date closed	

SPECIAL INSTRUCTIONS:
I need a list of all matters handled by the Rose Firm (ROSE070) for the FDIC and RTC

* These are the only fields required for an individual One Page Status Report.

---->-->-->-->-->-->-->-->-->--> REQUEST FOR CMS SERVICES <--<--<--<--<--<--<--<--<--<---

REQUESTOR: Earl McDett TELEPHONE #: DATE: 10 March

DATE REQUIRED 10 March

[✓] ONE TIME REPORT

[ ]PERIODIC REPORT
FREQUENCY: ____________

THIS REQUEST RESULTS FROM:
[ ]CONGRESSIONAL INQUIRY [ ]FOIA [✓]OTHER: Earl McDett

1) TYPE OF REPORT/SERVICE(S) NEEDED:

[ ] SPECIFIC CASE SEARCH REQUIRED (full page detail will be printed):
PROVIDE THE FOLLOWING:
CASE NAME: ____________ FIN: ____________
<or>
COURT DOCKET NUMBER: ____________

[ ] SUMMARY/INDEX REQUIRED:
[ ]FULL DETAIL [ ]TOTALS

2) SELECTION CRITERIA:
BRANCH: [ ]FDIC [ ]RTC [ ]FRF
TYPE: [ ]LL [ ]NL [ ]SN [ ]BK [ ]AD [ ]PLS (see reverse for definitions)
AIC-IND: [ ]ACTIVE [ ]INACTIVE [ ]CLOSED [ ]ACTIVE & INACTIVE
OTHER---->(see reverse for examples)
FIELD NAME: lawfirm-id = Rose070
FIELD NAME: ____________ = ____________
FIELD NAME: ____________ = ____________

3) SORT CRITERIA (order of data - refer to reverse for field names):
1ST LEVEL SORT FIELD NAME: case-name.
2ND LEVEL SORT FIELD NAME: ____________
3RD LEVEL SORT FIELD NAME: ____________
4TH LEVEL SORT FIELD NAME: ____________

4) REPORT APPEARANCE (column headings - list fields in order they are to appear on report)

01)	case id	07)	DTE Closed
02)	case name	08)	office
03)	fin	09)	
04)	fin-name	10)	
05)	aic	11)	
06)	DTE ASG	12)	

5) SPECIAL INSTRUCTIONS: ____________

---->-->-->-->-->-->-->-->-->--> FOR CMS USE ONLY <--<--<--<--<--<--<--<--<--<---

DATE RECEIVED: DATE COMPLETED:

TIME RECEIVED: BY: TIME COMPLETED: BY:

APPLICATION USED: [ ]CMS [ ]REPORT PROCESSING [✓]DQRY (NAME: McDett3)

COMMENTS/NOTES: ____________

D910305

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03/10/92                                    FED DEPOSIT INS CORP/RTC-PROD                                    PAGE    1
10:03:04                                          ROSE LAWFIRM                                               DETAIL


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  CASE ID   CASE NAME                                                                                      FIN
    FIN NAME                                  AIC    DTE ASG  DTE CLOSD  OFFICE
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  911576243  ARANSAS PRINCESS                                                                              7524
    GUARANTY/GUARANTY FSLA                    C     00-00-00   00-00-00  FRF-LIT-O'HARE CFO

  900023243  ASSOCIATED SPECIALTIES, ET. AL. VS. SEVEN ASSOCIATES, INC., ET. AL.                           7524
    GUARANTY/GUARANTY FSLA                    A     89-12-26   00-00-00  FRF-LIT-O'HARE CFO

  900623531  BAILEY, DAVID & RHONDA                                                                        7524
    GUARANTY/GUARANTY FSLA                    C     90-03-03   90-03-03  LITG. - OLD FSLIC - OHARE

  900850371  BISHOP, ROBERT AND VERNON GRAY                                                                7524
    GUARANTY/GUARANTY FSLA                    I     00-00-00   00-00-00  FRF-LIT-O'HARE CFO

  912316006  BOND CLAIM                                                                                    7428
    ARKANSAS FEDERAL SAVINGS BANK, FA         A     00-00-00   00-00-00  LIT-REC-K.C. CFO PROF LIABILIT

  900623560  BRIGHT, CHARLES & DEBBIE                                                                      7524
    GUARANTY/GUARANTY FSLA                    C     90-03-03   90-03-03  LITG. - OLD FSLIC - OHARE

  900624132  BRIGHT, DAVID & BESSIE JANE                                                                   7524
    GUARANTY/GUARANTY FSLA                    C     90-03-03   90-03-03  LITG. - OLD FSLIC - OHARE

  900625244  BUELL, KING AND CHARLES & GLORIA SHELTON; FSLIC V.                                            7524
    GUARANTY/GUARANTY FSLA                    C     90-03-03   90-03-03  LITG. - OLD FSLIC - OHARE

  900625272  BUELL, KING AND JAMES MESSICK; FSLIC V.                                                       7524
    GUARANTY/GUARANTY FSLA                    C     90-03-03   90-03-03  LITG. - OLD FSLIC - OHARE

  911576414  BUILDERS SERVICE BUREAU, INC.                                                                 7524
    GUARANTY/GUARANTY FSLA                    C     00-00-00   00-00-00  FRF-LIT-O'HARE CFO

  900624241  CANTRELL, STEPHEN & GLENDA                                                                    7524
    GUARANTY/GUARANTY FSLA                    C     90-03-03   90-03-03  LITG. - OLD FSLIC - OHARE

  900624273  CARSON, ROGER & MARY                                                                          7524
    GUARANTY/GUARANTY FSLA                    C     90-03-03   90-03-03  LITG. - OLD FSLIC - OHARE

  900850141  CENTRAL STATES LEASING, INC.                                                                  7524
    GUARANTY/GUARANTY FSLA                    C     00-00-00   91-01-15  FRF-LIT-O'HARE CFO

  912149282  CITIZENS/MAUMELLE JV & DISC INTL                                                              7403
    CITIZENS SECURITY BANK                    A     00-00-00   00-00-00  RTC-LIT-REC-SAN ANTONIO CFO

  900624303  CLARK, CLIFFORD & PAULINE                                                                     7524
    GUARANTY/GUARANTY FSLA                    C     90-03-03   90-03-03  LITG. - OLD FSLIC - OHARE

  911576340  CONELY COMOPANY DBA AQUATECH                                                                  7524
    GUARANTY/GUARANTY FSLA                    C     00-00-00   00-00-00  FRF-LIT-O'HARE CFO

  900624373  CURTIS, DAVID & JANELLE                                                                       7524
    GUARANTY/GUARANTY FSLA                    C     90-03-03   90-03-03  LITG. - OLD FSLIC - OHARE
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  CASE ID    CASE NAME                                                                                   FIN
    FIN NAME                                  AIC    DTE ASG  DTE CLOSD  OFFICE
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  900624421  DAVENPORT, LANDI G.                                                                         7524
    GUARANTY/GUARANTY FSLA                    C     90-03-03   90-03-03  LITG. - OLD FSLIC - OHARE

  900850171  DAVIS, JAMES W. AND MELVIN RABE                                                             7524
    GUARANTY/GUARANTY FSLA                    C     00-00-00   91-01-15  FRF-LIT-O'HARE CFO

  911554222  DE HAVEN, TODD & CO.                                                                        2124
    SAN JACINTO SAVINGS ASSOCIATION, PA       C     00-00-00   91-09-06  RTC-LIT-REC-HOUSTON CFO

  900624444  DEES, ELMO                                                                                  7524
    GUARANTY/GUARANTY FSLA                    C     90-03-03   90-03-03  LITG. - OLD FSLIC - OHARE

  911994221  DIRECTORS & OFFICERS INVESTIGATION                                                          6909
    HOME FEDERAL SAVINGS & LOAN ASSOC.        A     00-00-00   00-00-00  LIT-REC-K.C. CFO PROF LIABILIT

  911986480  DIRECTORS & OFFICERS INVESTIGATION                                                          7107
    CAPITOL FEDERAL S & L ASSOC.              A     00-00-00   00-00-00  LIT-REC-K.C. CFO PROF LIABILIT

  911994244  DIRECTORS & OFFICERS INVESTIGATION                                                          7164
    INDEPENDENCE FS & LA                      A     00-00-00   00-00-00  LIT-REC-K.C. CFO PROF LIABILIT

  911643445  DIRECTORS AND OFFICERS                                                                      7370
    FIRST FEDERAL OF ARKANSAS, FA             A     00-00-00   00-00-00  PROFESSIONAL LIABILITY RTC-REC

  911643540  DIRECTORS AND OFFICERS                                                                      7428
    ARKANSAS FEDERAL SAVINGS BANK, FA         A     00-00-00   00-00-00  LIT-REC-K.C. CFO PROF LIABILIT

  911643496  DIRECTORS AND OFFICERS INVESTIGATION                                                        7040
    FIRST STATE SAVINGS BANK, FSB             A     00-00-00   00-00-00  LIT-REC-K.C. CFO PROF LIABILIT

  911576372  DOMGAARD ASSOCIATES                                                                         7524
    GUARANTY/GUARANTY FSLA                    C     00-00-00   00-00-00  FRF-LIT-O'HARE CFO

  900850122  FALCONBERG, LEWIS AND REBA; FSLIC VS. RECEIVER FOR GUARANTY VS. LEWIS FALCONBERG, ET. AL.  7524
    GUARANTY/GUARANTY FSLA                    C     00-00-00   90-03-26  LITG. - OLD FSLIC - OAKLAWN

  900624473  FILM, KEVIN & YVONNE                                                                        7524
    GUARANTY/GUARANTY FSLA                    C     90-03-03   90-03-03  LITG. - OLD FSLIC - OHARE

  900624535  FISCHER, GERALD & RICHARD NEAL                                                              7524
    GUARANTY/GUARANTY FSLA                    C     90-03-03   90-03-03  LITG. - OLD FSLIC - OHARE

  900624510  FISHEL, JAMES & CAROL                                                                       7524
    GUARANTY/GUARANTY FSLA                    C     90-03-03   90-03-03  LITG. - OLD FSLIC - OHARE

  900624562  FLEENOR, MARY BETH                                                                          7524
    GUARANTY/GUARANTY FSLA                    C     90-03-03   90-03-03  LITG. - OLD FSLIC - OHARE

  900624594  GROVE, VERNON & ELIZABETH                                                                   7524
    GUARANTY/GUARANTY FSLA                    C     90-03-03   90-03-03  LITG. - OLD FSLIC - OHARE
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CASE ID    CASE NAME                                                                                              FIN
  FIN NAME                                   AIC   DTE ASG  DTE CLOSD  OFFICE
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900625143  HAMERNICK, RAPHAEL & BETTY                                                                             7524
  GUARANTY/GUARANTY FSLA                     C     90-03-03   90-03-03  LITG. - OLD FSLIC - OHARE

900623293  HARRIS, JERRY & GAIL                                                                                   7524
  GUARANTY/GUARANTY FSLA                     C     90-03-03   91-03-06  FRF-LIT-O'HARE CFO

900850200  HARRISON OMEGA CORPORATION                                                                             7524
  GUARANTY/GUARANTY FSLA                     C     00-00-00   91-01-15  FRF-LIT-O'HARE CFO

900877592  HERITAGE MOUNTAIN PROPERTY, PROVO, UTAH                                                                7524
  GUARANTY/GUARANTY FSLA                     C     00-00-00   91-01-07  FRF-LIT-O'HARE CFO

911576522  KANDIS, DAVIS                                                                                          7524
  GUARANTY/GUARANTY FSLA                     C     00-00-00   00-00-00  FRF-LIT-O'HARE CFO

900023282  KETCHUM, KONKEL, BARRETT, NICKEL & AUSTIN (KKBNA) VS. HERITAGE MOUNTAIN DEVELOPMENT CO., ET. AL.      7524
  GUARANTY/GUARANTY FSLA                     C     89-12-26   90-12-26  FRF-LIT-O'HARE CFO

911576550  KILLIAN CONSTRUCTION COMPANY                                                                           7524
  GUARANTY/GUARANTY FSLA                     C     00-00-00   00-00-00  FRF-LIT-O'HARE CFO

900625181  KING, BUELL AND IRL & MARY ANN SPENCE                                                                  7524
  GUARANTY/GUARANTY FSLA                     C     90-03-03   90-03-03  LITG. - OLD FSLIC - OHARE

900625212  KING, BUELL AND ROBERT RANDALL AND SHELIA VALENTINE; FSLIC V                                           7524
  GUARANTY/GUARANTY FSLA                     C     90-03-03   90-03-03  LITG. - OLD FSLIC - OHARE

900624335  LAIR, HERB & SANDRA                                                                                    7524
  GUARANTY/GUARANTY FSLA                     C     90-03-03   90-03-03  LITG. - OLD FSLIC - OHARE

900625340  LOGAN, RICHARD & BARBARA; FSLIC V.                                                                     7524
  GUARANTY/GUARANTY FSLA                     C     90-03-03   90-03-03  LITG. - OLD FSLIC - OHARE

900625375  LOGAN, RICHARD AND ROGER LEES; FSLIC V.                                                                2402
  CONTINENTAL ILL NATIONAL BANK & TRUST C    C     90-03-03   90-03-03  BIF-BKR-O'HARE CFO

900827341  MARSHALL MOUNTAIN WAVE                                                                                 7524
  GUARANTY/GUARANTY FSLA                     C     00-00-00   91-01-15  FRF-LIT-O'HARE CFO

900625405  MCALPIN & HORN; FSLIC V.                                                                               7542
  CONSOLIDATED SB                            C     90-03-03   90-03-03  LITG. - OLD FSLIC - OHARE

900625442  METRO SERVICE SYSTEMS                                                                                  7524
  GUARANTY/GUARANTY FSLA                     C     90-03-03   90-03-03  LITG. - OLD FSLIC - OHARE

912066495  MITTELSTAEDT, JAMES & ROBERTA                                                                          8848
  SECURITY FEDERAL SAVINGS & LOAN ASSN       A     91-07-25   00-00-00  RTC-LIT-CON-DENVER CFO

901914454  MONTE VISTA VILLAGE                                                                                    7524
  GUARANTY/GUARANTY FSLA                     A     90-07-31   00-00-00  FRF-LIT-O'HARE CFO
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  CASE ID    CASE NAME                                                                                      FIN
    FIN NAME                                        AIC    DTE ASG  DTE CLOSD  OFFICE
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  900817076  NORTH ARKANSAS MEDICAL CENTER VS. BARRETT, SR.; VS FDIC GUARANTY.                              7524
    GUARANTY/GUARANTY FSLA                          A      90-07-31  00-00-00  FRF-LIT-O'HARE CFO

  911576133  NORTHSTAR                                                                                      7524
    GUARANTY/GUARANTY FSLA                          C      00-00-00  00-00-00  FRF-LIT-O'HARE CFO

  900850183  OLD TOWN MALL, INC. (TOM BROUDER)                                                              7524
    GUARANTY/GUARANTY FSLA                          C      00-00-00  91-01-15  FRF-LIT-O'HARE CFO

  900625471  PARKER, JAMES & MARY KAY; FSLIC V.                                                             7524
    GUARANTY/GUARANTY FSLA                          C      90-03-03  90-03-03  LITG. - OLD FSLIC - OHARE

  900623371  PARKS, RONALD & JANICE                                                                         7524
    GUARANTY/GUARANTY FSLA                          C      90-03-03  90-07-19  LITG. - OLD FSLIC - OHARE

  900625501  PETERSON, HUBERT & DELORES; FSLIC V.                                                           7524
    GUARANTY/GUARANTY FSLA                          C      90-03-03  90-03-03  LITG. - OLD FSLIC - OHARE

  911576462  POINT TIBURON                                                                                  7524
    GUARANTY/GUARANTY FSLA                          C      00-00-00  00-00-00  FRF-LIT-O'HARE CFO

  900625534  RICHARDSON, SID DBA SID'S HILLBILLY AUTO SALES; FSLIC V.                                       7524
    GUARANTY/GUARANTY FSLA                          C      90-03-03  90-03-03  LITG. - OLD FSLIC - OHARE

  900023205  SUPERIOR ROOFING COMPANY, INC. VS. SEVEN ASSOCIATES, ET. AL.                                   7524
    GUARANTY/GUARANTY FSLA                          A      89-12-26  00-00-00  FRF-LIT-O'HARE CFO

  900625574  THOMPSON, LEWIS & SUSAN; FSLIC V.                                                              7524
    GUARANTY/GUARANTY FSLA                          C      90-03-03  90-03-03  LITG. - OLD FSLIC - OHARE

  900850333  TILLEY, JIM                                                                                    7524
    GUARANTY/GUARANTY FSLA                          C      00-00-00  91-01-15  FRF-LIT-O'HARE CFO

  900626003  TOLLIVER, ORBEN & PAULINE; FSLIC V.                                                            7524
    GUARANTY/GUARANTY FSLA                          C      90-03-03  90-03-03  LITG. - OLD FSLIC - OHARE

  900626064  TRUEBLOOD, MARK & PATTI; FSLIC V.                                                              7524
    GUARANTY/GUARANTY FSLA                          C      90-03-03  90-03-03  LITG. - OLD FSLIC - OHARE

  900515560  UNITED CAPITAL CORPORATION                                                                     7012
    MADISON COUNTY FS & LA                          C      00-00-00  90-02-20  RTC-LIT-REC-SHAUMBERG CFO

  900626092  WATTS, SOLOMON; FSLIC V.                                                                       7524
    GUARANTY/GUARANTY FSLA                          C      90-03-03  90-03-03  LITG. - OLD FSLIC - OHARE

  900626123  WHITAKER, BRIDGET & BILL GERDES; FSLIC V.                                                      7524
    GUARANTY/GUARANTY FSLA                          C      90-03-03  90-03-03  LITG. - OLD FSLIC - OHARE

  893420215  WILLIAMS & JONES, GEN P'SHIP; WILLIAMS, C D (1003)                                             7055
    ASPEN SAVINGS BANK                              A      89-11-09  00-00-00  RTC-LIT-REC-DENVER CFO
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03/10/92                          FED DEPOSIT INS CORP/RTC-PROD                              PAGE    5
10:03:04                                 ROSE LAWFIRM                                        DETAIL


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  CASE ID    CASE NAME                                                                     FIN
    FIN NAME                                 AIC   DTE ASG  DTE CLOSD  OFFICE
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  900626151  WRAY, PATRICIA; FSLIC V.                                                      7524
    GUARANTY/GUARANTY FSLA                   C     90-03-03  90-03-03  LITG. - OLD FSLIC - OHARE

  912071075  WYCKOFF, LAWRENCE E., ET AL                                                   7304
    TENNESSEE FEDERAL SAVINGS BANK           A     91-01-01  00-00-00  RTC-LIT-REC-ATLANTA CFO
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 OFFICE ID: 001  - LITTLE ROCK          , AR

A/S    LDID     CLASS STATUS  MATTER CAPTION
     *********    *      *    ************** TOP OF LIST ***********************
 _   910004354    L      A  1 BYRUM, WILLIAM
 _   910000431    L      A  2 CITIZENS MAUMELLE JV
 _   920008550    P      E  3 COUCH, WILLIAM T. LANDMARK SAVINGS
 _   920008530    P      A  4 DIRECTORS & OFFICERS ARKANSAS FEDERAL
 _   920008539    P      A  5 DIRECTORS & OFFICERS CAPITAL FED
 _   920008882    P      A  6 DIRECTORS & OFFICERS FIRST STATE SAVINGS MH
 _   920008525    P      A  7 DIRECTORS & OFFICERS INDEPENDENCE FED BATESVILLE
     *********    *      *    ************* BOTTOM OF LIST *********************


  ENTER | PF3 | PF7 | PF8  | PF12      |
  PRCSS | END | UP  | DOWN | MAIN MENU |
```

Listed as "main" Rose Firm attorney - unclear wh[at] that means

Herbert C. Rule, III

Rose firm contact attorneys responsible for these matters

1 — 7304
2 - 7403
3 - H. Keith Morrison 7088

4 - Patricia Heritage - 7428
5 - " " - 7107
6 - " " - 7040
7 - " " - 7164

- Seven legal referrals on RLIS to Rose Law Firm shown - but there may be more that are not on the system. Also may be cases on CMS - Earl will check.

FAX **RTC**
Transmittal Sheet **Resolution Trust Corporation**

Date: 3-10, 1992,
Time: 9:40 am.,

TO: Michael Taylor

LOCATION: (Legal Divisions)
( ) **Baton Rouge Cons. Office**
( ) **Chicago Cons. Office**
( ) **Kansas City Cons. Office**
( ) **Other:**
( ) **Minneapolis Cons. Office**
( ) **Tulsa Cons. Office**
(✓) **Washington Office (RTC)**

FAX NO.: (202) 736 3064

FROM: Russell F. Kaufman
LOCATION: **North Central Regional Office**
Resolution Trust Corporation - Legal Division
7400 W. 110th Street, Suite 400
Overland Park, KS 66210-2346
FAX NO.: (913) 344-8401 or 8402
TEL NO.: (913) 344-8400 (Receptionist), 344-8424 direct)

DESCRIPTION OF MATERIALS:

CONTENTS: 14 PAGES, INCLUDING COVER SHEET.

DELIVERY INSTRUCTIONS:
_____ **WITHIN 15 MINUTES**
_____ WITHIN ONE HOUR
_____ **NORMAL**

ACKNOWLEDGEMENT REQUIRED:
_____ VERBAL
_____ WRITTEN
_____ NONE

MESSAGE:

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                             ** FDIC VENDOR PROCESSING **
DATE: 03/09/92                -VENDOR DISPLAY (39)-                 TIME: 16:10:04

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 ROSE070                                           SHORT NAME: ROSELAWFIR
               ROSE LAW FIRM, P.A.               CONTACT NAME: HUBERT C. RULE, II
               ATTORNEYS                            TELEPHONE: 501/375-9131
               120 EAST FOURTH STREET                 TYPE CD: 9
               LITTLE ROCK      AR                     STATUS:
               72201                                  MIN SUP: NMM
                                             SM BUS/FOREIGN: N / N
    STD TERMS:     / NONE SPECIFIED        FOB:      / NONE SPECIFIED

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 PRIOR YTD AMT:     $255317.93  PRIOR YEAR INV:     34   COMPLETE ON TIME:     0
  CURR YTD AMT:      $74000.30   CURR YEAR INV:     14     PARTIAL SHMTS:     0
    DISC AVAIL:          $0.00                              DAMAGED SHMTS:     0
    DISC TAKEN:          $0.00                            CANCELLED SHMTS:     0

      CREATE DATE: 01/06/87                          1099 ID: 710438614
    LAST UPD DATE: 02/28/91                          1099 CD: 7
   LAST ACTY DATE: 02/10/92                         1099 UPD: Y
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 OFFICE ID: 001  - LITTLE ROCK          , AR

A/S    LDID      CLASS STATUS  MATTER CAPTION
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 _   910000431     L     A     CITIZENS MAUMELLE JV
 _   920008550     P     E     COUCH, WILLIAM T. LANDMARK SAVINGS
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 _   920008539     P     A     DIRECTORS & OFFICERS CAPITAL FED
 _   920008882     P     A     DIRECTORS & OFFICERS FIRST STATE SAVINGS MH
 _   920008525     P     A     DIRECTORS & OFFICERS INDEPENDENCE FED BATESVILLE
     *********     *     *     ************* BOTTOM OF LIST *********************


 * ENTER * PF3 * PF7 * PF8  * PF12      *
 * PRCSS * END * UP  * DOWN * MAIN MENU *

B MY JOB                        LU #6
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PLS cases

Total = 7
RLIS

CMS Total = 22

PLS Cases

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03/09/92               FED DEPOSIT INS CORP/RTC-PROD               PAGE    1
15:57:22                                                           DETAIL

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  LOSL03B  901914454  7524  JENSEN, BRAD/OHAR/FDIC             A    ROSE070
  LOSL03B  900023205  7524  TIMOTHY, MICHAEL/OHAR/FDIC         A    ROSE070
  LOSL03B  900023243  7524  TIMOTHY, MICHAEL/OHAR/FDIC         A    ROSE070
  LRSL08A  893420215  7055  ROME, GEROLD/DENV/RTC              A    ROSE070
  LRSL01F  912071075  7304  BARAN, MARK/ATLA/RTC               A    ROSE070
  LRSL090  911643445  7370  MARSHALL, MIRA/WASH/FDIC           A    ROSE070
  LRSL04Y  911643496  7040  ARTHUR, CAROLYN/KC/RTC             A    ROSE070
  LRSL04Y  911643540  7428  CURTIS, DUANE/KC/RTC               A    ROSE070
  LRSL04Y  911986480  7107  CURTIS, DUANE/KC/RTC               A    ROSE070
  LRSL04Y  911994244  7164  ARTHUR, CAROLYN/KC/RTC             A    ROSE070
  LRSL04Y  911994221  6909  ARTHUR, CAROLYN/KC/RTC             A    ROSE070
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03/09/92               FED DEPOSIT INS CORP/RTC-PROD               PAGE    2
15:57:22                                                           DETAIL

  USER     CASE ID    FIN   FDIC ATTORNEY                      AIC  LAWFIRM ID
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  BOSL03B  901178032  7524  KALKOWSKI, MICHAEL/OHAR/FDIC       I    ROSE070
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NYT 4000024767
Headline: THE 1992 CAMPAIGN: CANDIDATE'S RECORD; RECORDS SHOW CLINTONS LOST LESS IN VENTURE THAN PARTNER
By-line: JEFF GERTH, Special to The New York Times
Source: The New York Times, Late Edition - Final
Date: Wednesday Mar 25, 1992 Sec: A National Desk p: 19
Length: Medium 536 words Type: BIOGRAPHY

Abstract: A murky reconstruction of Arkansas Governor Bill Clinton's financial holdings in an Ozark real estate company, Whitewater Development Co, shows that another investor in the company, James B. McDougal, lost a third more in the venture than Clinton and hi wife.

Subjects: PRESIDENTIAL ELECTION OF 1992; FINANCES, PERSONAL
Names: CLINTON, BILL (GOV); CLINTON, HILLARY RODHAM; GERTH, JEFF; MCDOUGAL, JAMES B
Companies: DEMOCRATIC PARTY

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Article Text:

WASHINGTON, March 24--The owner of a failing savings and loan who was Gov. Bill Clinton's partner in an Ozark real estate company lost a third more money than the Clintons, according to a partial reconstruction of the company's finances prepared for the Clintons and made public today by his Presidential campaign.

The reconstruction, which adds another piece to a murky financial relationship, shows that James B. McDougal and his wife, Susan, incurred net losses of $92,200, while Mr. Clinton and his wife, Hillary, who owned the othe half of the real estate company, the Whitewater Development Company, lost $68,900.

The venture began in 1978, when Mr. Clinton was the Arkansas Attorney General. Whitewater still exists as a corporate entity. By the mid-1980's, after Mr. Clinton had been elected Governor, Mr. McDougal controlled a bank an the Madison Guaranty Savings and Loan, both regulated by the state.

Many Records Missing

An article earlier this month in The New York Times told of Mr. Clinton's Whitewater investment, saying it had raised questions of whether a Governor should be involved in a business deal with the head of a company regulated by federal examiners found the thrift insolvent, exposing it to closure by the state.

Governor Clinton then appointed a new securities commissioner, who had bee a lawyer in the firm representing Madison Guaranty. On its face, that at leas raised the possibility of a conflict of interest. The new commissioner then accepted two suggestions by Hillary Clinton, a partner in another firm that also represented Mr. McDougal's thrift. Her ideas helped keep Madison open fo a time but eventually Federal officials took it over and ousted Mr. McDougal.

It's entirely possible that no official action concerning Madison Guaranty bore any trace of improper influence. But that's not the point. The public should not be required to assume that people in power will never misuse their power. That's why officials recuse themselves when their impartiality might reasonably be questioned. The Clintons, skilled lawyers, must surely recogniz the appearance of a conflict.

That, so far, is the only clear question in this tangle. Other questions, like the extent to which Mr. McDougal may have subsidized the original land venture, are mired in complex tax returns and missing or incomplete records.

The public would be well served if the Governor and his wife gave a fuller explanation of a decade of McDougal dealings. The Clintons, meanwhile, would well served by displaying a clearer appreciation of conflict-of-interest precepts.

NYT 4000020666

Headline: THE 1992 CAMPAIGN: PERSONAL FINANCES; CLINTON DEFENDS REAL-ESTAT DEAL

By-line: GWEN IFILL, Special to The New York Times

Source: The New York Times, Late Edition - Final
Date: Monday Mar 9, 1992 Sec: A National Desk p: 13
Length: Medium 664 words Type: BIOGRAPHY Illus: Chart

Abstract: While on the presidential campaign trail in Texas on Mar 8, 1992 Arkansas Governor Bill Clinton said that he and wife, Hillary, d nothing improper when they entered the real-estate partnership Whitewater Development with the owner of an Arkansas S&L subject to state regulation.

Subjects: PRESIDENTIAL ELECTION OF 1992; ETHICS; BANKS AND BANKING; REAL ESTATE ; HOUSING; SAVINGS AND LOAN ASSOCIATIONS; BANKS AND BANKING; OZARK MOUNTAINS; ARKANSAS

Names: CLINTON, BILL (GOV); CLINTON, HILLARY RODHAM; MCDOUGAL, JAMES B IFILL, GWEN

Companies: WHITEWATER DEVELOPMENT; MADISON GUARANTY (SAVINGS & LOAN)

Copyright 1992 The New York Times Company. Data supplied by NEXIS (R) Service.

Article Text:

AUSTIN, Tex., March 8--Gov. Bill Clinton of Arkansas said today that he an his wife, Hillary, did nothing improper when they entered a real-estate partnership with the owner of a savings and loan institution that was subject to state regulation.

Speaking to reporters as he campaigned through Texas today for votes in th Democratic Presidential primary on Tuesday, Mr. Clinton said that an article about the partnership in The New York Times on Sunday was misleading and that he and his wife lost more than $25,000 in the joint venture.

"There was no impropriety," Mr. Clinton said of the partnership with his former aide, James B. McDougal, to develop land in the Ozarks.

Financial Exposure

The partnership began in 1978, when Mr. Clinton was Arkansas's Attorney General. "I was not yet Governor," he said today, and Mr. McDougal "was not i any financial institution.

"The article seems to imply that my wife and I had no financial exposure," he went on. "There's nothing could be further from the truth.

"We were jointly and severally liable for more than $200,000 worth of debt Mr. Clinton said. He termed the relationship "purely private investment" that was "nothing but a big money loser for me."

The Times article raised questions about the Clintons' relationship with M McDougal and Whitewater Development, a corporation that planned to turn the 2 acres of Ozarks property into lots for vacation homes.

Records obtained by The New York Times were incomplete, but the article questioned the Clintons' involvement in the venture at a time when Mr. McDougal's savings institution, Madison Guaranty, was subject to regulation b the state securities commission.

'Honest Error'

The article also said that on their tax returns in 1984 and 1985 the Clintons improperly deducted at least $5,000 in interest payments on bank loa payments that Whitewater made for them. The deductions saved them about $1,00

in taxes. Mr. Clinton said he and his wife were reviewing their tax records a would repay the amount, which his lawyer, Susan P. Thomases, described as an "honest error."

Before the Times article was published, the Clintons turned down requests for interviews, instead retaining lawyers to answer questions about the enterprise. The lawyers were interviewed for several hours in person and several hours by telephone and provided 15 to 20 documents.

In an interview in The Arkansas Democrat Gazette today, Mr. McDougal was quoted as saying that the Clintons did nothing improper and that neither he n his savings and loan got preferential treatment.

In a separate statement at Mr. Clinton's news conference today, Sam Heuer, Mr. McDougal's lawyer, said he was "appalled and affronted by the allegations and reckless disregard of the facts by The New York Times and its reporter, Jeff Gerth." He said any suggestion that Mr. McDougal used money from Madison Guaranty to subsidize the Clintons' portion of the joint partnership was "not only false but probably actionable by Mr. McDougal." Mr. Heuer said that ther was "no link between Whitewater Development Company and Madison Guaranty Savings and Loan."

The Times article cited records showing that in 1984, when White water's account at Madison was overdrawn, money was deposited to make up the shortage from Madison Marketing, an affiliate of the savings and loan.

The article also called attention to Mr. Clinton's appointment of Beverly Bassett Schaffer, a lawyer in a firm that had represented Madison Guaranty, a State Securities Commissioner at a time when the institution faced possible closure by the state.

Today Mr. Clinton said his appointing Mrs. Schaffer was not a way of aidin Mr. McDougal.

Mrs. Schaffer, in a statement also released by the campaign, concurred.

Mr. Clinton conceded that as Governor, he perhaps should have found a way t extricate himself from the financial relationship. "But frankly, at the time never crossed my mind because we were losing money."

Caption:

Chart: "Campaign Calendar: 5 States in One Day"

The pace and complexity of a Presidential campaign is dictated by the desire to achieve the most television exposure possible in locales with the richest voter and delegate potential. The itinerary of Gov. Bill Clinton last Friday, illustrates how it is done:

TEXAS

9:30 A.M. -- The day begins in Houston, 30 minutes behind schedule at the

Mr. Clinton has said that the relationship was proper, and he asked a Denver lawyer and friend, James M. Lyons, to prepare a report on Whitewater's finances.

It is not possible to fully reconstruct Whitewater's finances, since many of the records are missing. The Clintons and their lawyers say they do not know where the company records are, and they note that Mr. McDougal is Whitewater's president and that the Clintons were passive shareholders in the company.

Mr. McDougal says the missing records were delivered to the Governor's Mansion a few years ago.

The Times's investigation found that the available records appeared to show that Mr. McDougal was heavily subsidizing the company, whose stock ownership is equally divided between the two couples.

In the report by Mr. Lyons, two accountants analyzed the available records and said the Clintons had "invested, loaned or otherwise advanced" to Whitewater and the McDougals $68,900. This was done without any return other than payments to lenders for loans the Clintons had taken out on the company's behalf.

The McDougals, the analysis said, had "invested, loaned or otherwise provided funds" to Whitewater in the net amount of $92,200, the difference between the $268,000 they paid in and the $175,800 they were reimbursed or had withdrawn.

The analysis provided no itemized list for the figures or any supporting documentation. But a reconstructed balance sheet prepared by the accountants showed that loans and advances from the McDougals into the company increased significantly between June 1984 and May 1986. This was the time, according to available records, when Mr. McDougal's savings and loan was failing and when Whitewater was overdrawing its account at the institution.

The report by Mr. Lyons said Mr. Clinton had received no guarantees that his interest in the company would be "carried," or insulated from losses, adding that the McDougals and the Clintons were liable for more than $200,000 in bank loans taken out in connection with the real estate venture.

NYT 4000022703
Headline: THE 1992 CAMPAIGN; HILLARY CLINTON DEFENDS HER CONDUCT IN LAW FIR
By-line: GWEN IFILL, Special to The New York Times
Source: The New York Times, Late Edition - Final
Date: Tuesday Mar 17, 1992 Sec: A National Desk p: 20
Length: Medium 386 words Type: BIOGRAPHY

Abstract: While campaigning with her husband in Chicago on Mar 16, 1992, Hillary Clinton, the wife of Arkansas Governor Bill Clinton, said that she did not earn "a penny" from state business conducted by her law firm and that she never intervened with state regulators on behalf of a failed Arkansas S&L.
Subjects: PRESIDENTIAL ELECTION OF 1992; ELECTION ISSUES; CHICAGO (ILL)
Names: IFILL, GWEN; CLINTON, BILL (GOV); CLINTON, HILLARY RODHAM; BROWN, EDMUND G JR

Copyright 1992 The New York Times Company. Data supplied by NEXIS (R) Service.

Article Text:

CHICAGO, March 16--Hillary Clinton said today that she did not earn "a penny" from state business conducted by her Little Rock law firm and that she never intervened with state regulators on behalf of a failed Arkansas savings and loan association.

Campaigning here with her husband, Gov. Bill Clinton of Arkansas, Mrs. Clinton said the questions, raised by former Gov. Edmund G. Brown Jr. of California near the end of a Democratic candidates' debate on Sunday, were a "pathetic and desperate" attempt to derail the Clinton Presidential campaign

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outset. The candidate had planned to visit a school, but goes to a criminal justice center instead.

Mr. Clinton tours the combined court, police station, the detention cente trailed by more than two dozen reporters and camera crews. He ducks into an office to try to call Senator Bob Kerrey, who had dropped out of the Presidential race the day before, and his schedule falls even more hopelessly behind.

11:40 A.M. -- Wheels up from Houston Hobby Airport.

FLORIDA

1:10 P.M. -- Touchdown in Tampa, Fla., and the candidate rushs to tape a 12-minute interview with The Discovery Channel.

Governor Clinton arrives late at a senior citizen apartment building, but the modest crowd is still waiting patiently. He gives a pared-down version of his basic speech and answers a few questions.

Returning to the airport, he tapes an interview for the MacNeil-Lehrer Ne Hour. "Only three more states today," the Governor remarks as he headed towar the plane.

5:30 P.M. -- The plane is cleared for takeoff, an hour after the schedule dictated it should be in the air and at just about the time it was to have landed at the next stop, Columbia, S.C.

SOUTH CAROLINA

6:30 P.M. -- Land in Columbia.

The visit is just long enough for Mr. Clinton drive to an Embassy Suite Hotel, give a speech and return to the airport.

TENNESSEE

8 P.M. -- Touchdown in Nashville.

Mr. Clinton confers with his staff about how to respond to a new attack from one of his opponents, then walked into a hangar where a country band is playing "Tennessee Waltz" and Gov. Ned McWherter is telling the crowd why Mr. Clinton should be President.

10:10 P.M. -- Mr. Clinton holds a brief news conference before flying to Baton Rouge, La.

LOUISIANA

1 A.M. -- The candidate, his staff and the press traveling with him checke into the Baton Rouge Hilton to spend the night and recuperate in time for a morning jog with college students and a breakfast with Louisiana supporters.

NYT 9200020460

Headline: THE 1992 CAMPAIGN: PERSONAL FINANCES; CLINTONS JOINED S.& L. OPERATOR IN AN OZARK REAL-ESTATE VENTURE

By-line: JEFF GERTH, Special to The New York Times

Source: The New York Times, Late Edition - Final
Date: Sunday Mar 8, 1992 Sec: 1, Part 1 National Desk p: 1
Length: Long 1785 words

Abstract: Democratic presidential candidate Bill Clinton and his wife Hillary were business partners with James B. McDougal in a ventur called Whitewater Development, which was repeatedly propped up by the failed Madison Guaranty S&L owned by McDougal, according to information uncovered in a New York Times investigation of the Clintons' tax records and business relationships.

Subjects: PRESIDENTIAL ELECTION OF 1992; REAL ESTATE; HOUSING; ETHICS; BANK AND BANKING ; SAVINGS AND LOAN ASSOCIATIONS; ARKANSAS; OZARK MOUNTAINS

Names: CLINTON, BILL (GOV); CLINTON, HILLARY RODHAM ; MCDOUGAL, JAMES B;

Companies: WHITEWATER DEVELOPMENT; MADISON GUARANTY (SAVINGS & LOAN)

Copyright 1992 The New York Times Company. Data supplied by NEXIS (R) Service.

Article Text:

WASHINGTON, March 7--Bill Clinton and his wife were business partners with the owner of a failing savings and loan association that was subject to state regulation early in his tenure as Governor of Arkansas, records show.

The partnership, a real estate joint venture that was developing land in t Ozarks, involved the Clintons and James B. McDougal, a former Clinton aide turned developer. It started in 1978, and at times money from Mr. McDougal's savings and loan was used to subsidize it. The corporation continues to this day, but does not appear to be active.

Mr. McDougal gave a detailed account of his relationship in several interviews in the last two weeks. This account, along with an examination of related local, state and Federal records and interviews with dozens of others in Arkansas, found the following:

*Available records covering the most active period of the real estate corporation, called Whitewater Development, appear to show that Mr. McDougal heavily subsidized it, insuring that the Clintons were under little financial risk in what turned out to be an unsuccessful enterprise. The corporation bought 200 acres of Ozark Mountain vacation property and planned to sell it i lots. During this period, the Clintons appear to have invested little money, stood to lose little if the venture failed, but might have cashed in on their 50 percent interest if it had done well.

*The Clintons and Mr. McDougal disagree about what happened to Whitewater' records. Mr. McDougal says that at Mr. Clinton's request they were delivered the Governor's mansion. The Clintons say many of them have disappeared. Many questions about the enterprise cannot be fully answered without the records.

*After Federal regulators found that Mr. McDougal's savings institution, Madison Guaranty, was insolvent, meaning it faced possible closure by the state, Mr. Clinton appointed a new state securities commissioner, who had bee a lawyer in a firm that represented the savings and loan. Mr. Clinton and the commissioner deny giving any preferential treatment. The new commissioner approved two novel proposals to help the savings and loan that were offered b Hillary Clinton, Governor Clinton's wife and a lawyer. She and her firm had been retained to represent the association.

*The Clintons improperly deducted at least $5,000 on their personal tax returns in 1984 and 1985 for interest paid on a portion of at least $30,000 i bank loan payments that Whitewater made for them. The deductions saved them about $1,000 in taxes, but since the error was more than three years ago, Internal Revenue Service regulations do not require the Clintons to pay.

The complicated relationship between Mr. McDougal and the Clintons came to light in an investigation by The New York Times of the Clintons' tax records and business relationships. It raises questions of whether a governor should involved in a business deal with the owner of a business regulated by the sta and whether, having done so, the governor's wife through her law firm should receiving legal fees for work done for the business.

Confusion Is Cited

Asked about these matters, the Clintons retained two lawyers to answer questions. The lawyers said the improper tax deductions were honest errors, made because there was confusion over who really owned a certain piece of Whitewater property and who was responsible for the loan taken out to buy it, Whitewater or the Clintons.

The deed for the land and the loan papers are all in the Clintons' names.

The lawyers said they were not in a position to answer questions about whe the money that went into Whitewater came from. But generally, they said they thought neither the Clintons nor Mr. McDougal had profited from the venture. They also said the Clintons were once liable for about $100,000 in bank loans that financed Whitewater's original purchase of land. But the lawyers have on been able to find original documents showing $5,000 that the Clintons paid.

Some questions about the relationship and the Clintons' role in it may be difficult to resolve because of differing accounts and the missing records.

The two lawyers representing the Clintons are Susan P. Thomases, a longtim friend, and Loretta Lynch, a campaign aide, who participated in several hours of interviews at Ms. Thomases' Manhattan offices Thursday and Friday.

Payments on Debt

The records that are available, and Mrs. Thomases' account, show that Whitewater made payments between 1982 and 1985 on Mrs. Clinton's $30,000 real estate debt, reducing the debt by about $16,000 while also paying at least $14,000 in interest. At least one of those checks was signed by Mr. McDougal.

Mrs. Clinton originally borrowed the $30,000 from a bank also controlled b Mr. McDougal, Bank of Kingston, but "Hillary took the loan on behalf of the corporation," Ms. Thomases said. That, she explained, is why Whitewater made the payments.

The Clintons' 1984 and 1985 tax returns show that they took deductions for interest payments of $2,811 and $2,322 that Whitewater had made.

"It clearly is an error," Ms. Thomases said. She noted that the tax return for those years were prepared by accountants in Arkansas.

The Clintons' gross income in 1984, as reported on their tax returns, was about $111,000 and they paid $22,280 in Federal taxes. In 1985, their reporte income was about $102,000, and they paid $18,791 in Federal taxes.

Longtime Friendship

Mr. Clinton and Mr. McDougal had been friends since the 1960's. When Mr. Clinton became the nation's youngest Governor at 32 years old, he took Mr. McDougal into his administration as an aide for economic development. It was about this time that the men formed Whitewater.

A few years later Mr. McDougal, having left government in 1979, bought control of a small savings and loan association, Madison Guaranty, and built into one of the largest state-chartered associations in Arkansas.

But over time, the savings and loan got in trouble, like many others aroun the country. Finally Federal regulators took the savings and loan away from M McDougal, and a Federal grand jury charged him with fraud, though he was acquitted. The Clintons were not involved in those proceedings.

Mr. McDougal began having personal problems, too. He was found to be suffering from manic-depressive illness, though he was judged competent to stand trial. In the interviews, Mr. McDougal appeared stable, careful and cal

A year after the Clintons and McDougals bought the Ozark Mountain property and founded Whitewater Development in 1979, the corporation bought a modular house for about $22,000 and placed it on one of its lots. That lot was then conveyed to Mrs. Clinton, and the deed indicates that she paid nothing for it Ms. Thomases says this was an error by Whitewater. The deed, she said, should have shown the price and said that Mrs. Clinton paid.

But the house was carried on the books as a Whitewater corporate asset and used as a model house to attract other buyers, according to Whitewater record produced by Ms. Thomases. Because the records are incomplete, it is unclear exactly what happened. But about the same time, Mrs. Clinton personally borrowed $30,000 from Mr. McDougal's bank to pay for the house and the lot.

Ms. Thomases said Mrs. Clinton and the corporation regarded this as a corporate debt, though it was in Mrs. Clinton's name. The corporation include no one but the Clintons and the McDougals. It was this debt that Whitewater made payments on until the end of 1985.

One year after acquiring the property, Mrs. Clinton sold it for $27,500, with payments to be made over time, records show. It is not clear who receive corporation that took the loss on its books. A few years later, the buyer went bankrupt and stopped making payments, and then he died.

In 1988 Mrs. Clinton bought back the house from the estate of the buyer. Records show that she paid $8,000 and then resold the property a short time later for about $23,000, after closing costs. The Clintons reported a capital gain that year of $1,640.

Ms. Thomases explained that the capital gain was small because, as part of that transaction, Mrs. Clinton had to pay off Whitewater's remaining $13,000 debt on the property, originally incurred by Mrs. Clinton. The payments the previous owner had been making to Whitewater before he went bankrupt had been used to help pay off that debt.

Account Overdrawn

It was during the period when Whitewater was making the Clintons' loan payments that Madison Guaranty was putting money into Whitewater.

For example, Whitewater's check ledger shows that Whitewater's account at Madison was overdrawn in 1984, when the corporation was making payments on the Clintons' loan. Money was deposited to make up the shortage from Madison Marketing, an affiliate of the savings and loan that derived its revenues fron the institution, records also show.

It was also in 1984 that Madison started getting into trouble. Federal examiners studied its books that year, found that it was violating Arkansas regulations and determined that correcting the books to adjust improperly inflated profits would "result in an insolvent position," records of the 1984 examination show.

Arkansas regulators received the Federal report later that year, and under state law the securities commissioner was supposed to close any insolvent institution.

As the Governor is free to do at any time, Mr. Clinton appointed a new securities commissioner in January 1985. He chose Beverly Bassett Schaffer, a lawyer in one of the firms that had been representing Madison.

Fund-Raising Ideas

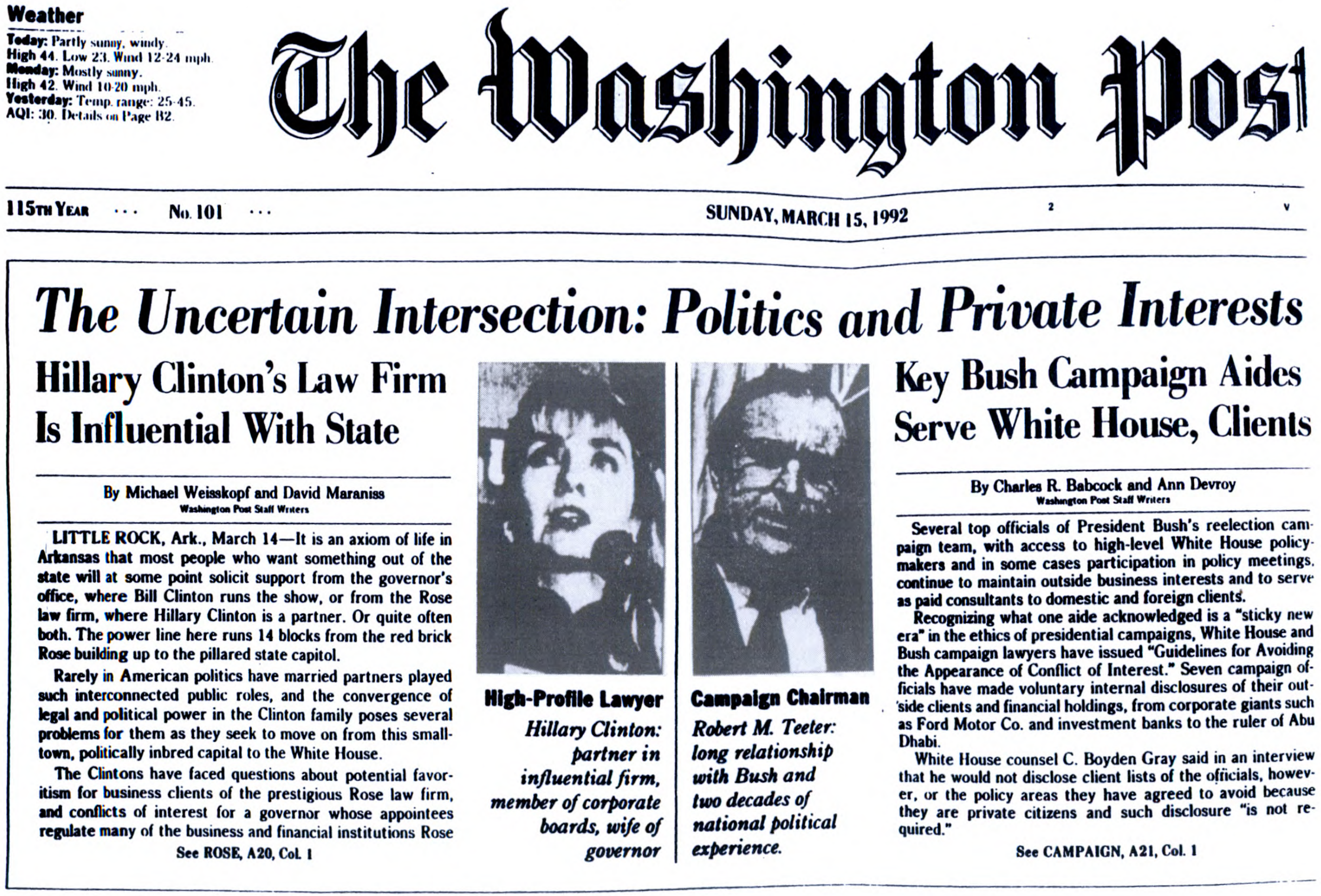
Ms. Thomases, after talking to Mr. Clinton this week, said the Governor chose her because they were friends, and because he wanted to appoint a well qualified woman to an important post.

In interviews, Mrs. Schaffer, now a Fayetteville lawyer, said she did not remember the Federal examination of Madison but added that in her view, the findings were not "definitive proof of insolvency."

In 1985, Mrs. Clinton and her Little Rock law firm, the Rose firm, twice applied to the Securities Commission on behalf of Madison, asking that the savings and loan be allowed to try two novel plans to raise money.

Mrs. Schaffer wrote to Mrs. Clinton and another lawyer at the firm approvin the ideas. "I never gave anybody special treatment," she said.

Madison was not able to raise additional capital. And by 1986 Federal regulators, who insured Madison's deposits, took control of the institution an ousted Mr. McDougal. Mrs. Schaffer supported the action.



Weather
Today: Partly sunny, windy.
High 44. Low 23. Wind 12-24 mph.
Monday: Mostly sunny.
High 42. Wind 10-20 mph.
Yesterday: Temp. range: 25-45.
AQI: 30. Details on Page B2.

The Washington Pos

115th Year ... No. 101 ... SUNDAY, MARCH 15, 1992 2 v

The Uncertain Intersection: Politics and Private Interests

Hillary Clinton's Law Firm Is Influential With State

By Michael Weisskopf and David Maraniss
Washington Post Staff Writers

LITTLE ROCK, Ark., March 14—It is an axiom of life in Arkansas that most people who want something out of the state will at some point solicit support from the governor's office, where Bill Clinton runs the show, or from the Rose law firm, where Hillary Clinton is a partner. Or quite often both. The power line here runs 14 blocks from the red brick Rose building up to the pillared state capitol.

Rarely in American politics have married partners played such interconnected public roles, and the convergence of legal and political power in the Clinton family poses several problems for them as they seek to move on from this small-town, politically inbred capital to the White House.

The Clintons have faced questions about potential favoritism for business clients of the prestigious Rose law firm, and conflicts of interest for a governor whose appointees regulate many of the business and financial institutions Rose

See ROSE, A20, Col. 1

High-Profile Lawyer

Hillary Clinton: partner in influential firm, member of corporate boards, wife of governor

Campaign Chairman

Robert M. Teeter: long relationship with Bush and two decades of national political experience.

Key Bush Campaign Aides Serve White House, Clients

By Charles R. Babcock and Ann Devroy
Washington Post Staff Writers

Several top officials of President Bush's reelection campaign team, with access to high-level White House policymakers and in some cases participation in policy meetings, continue to maintain outside business interests and to serve as paid consultants to domestic and foreign clients.

Recognizing what one aide acknowledged is a "sticky new era" in the ethics of presidential campaigns, White House and Bush campaign lawyers have issued "Guidelines for Avoiding the Appearance of Conflict of Interest." Seven campaign officials have made voluntary internal disclosures of their outside clients and financial holdings, from corporate giants such as Ford Motor Co. and investment banks to the ruler of Abu Dhabi.

White House counsel C. Boyden Gray said in an interview that he would not disclose client lists of the officials, however, or the policy areas they have agreed to avoid because they are private citizens and such disclosure "is not required."

See CAMPAIGN, A21, Col. 1

general. In 1979, about the time her husband became governor, Hillary Clinton was promoted at Rose, becoming the firm's first female partner. She also became the Clinton family's chief wage earner—Bill Clinton's salary as governor was $35,000 a year.

Hillary Clinton was named one of the 100 most influential lawyers in America by the National Law Journal in 1988 and 1991. Records indicate that most of her work for Rose has involved copyright infringement cases: protecting royalties for songwriters and trademark names for bread companies. Paradoxically, although she frequently is referred to in Little Rock and in profiles as a premier litigator, there is little indication here that she has appeared frequently in court.

George Bentley, a courthouse reporter for the Arkansas Gazette for 30 years, said he saw Hillary Clinton in court once: She represented the Little Rock Airport Commission in an eminent domain case. George Wells, who covers the federal courts for the Daily Record, a legal journal, said he has seen Hillary Clinton in trial litigation "maybe once or twice over the years." Pam Strickland, the Daily Record's state judicial reporter, said she has not seen Hillary Clinton in the state courts.

Rose is one of the Big 3 firms in Little Rock. The others are the Wright firm, where Bill Clinton worked when he was out of office between 1981 and 1983, and the Friday firm, known for its connections to former longtime Arkansas governor Orval Faubus.

Rose has 55 lawyers in four sections. Hillary Clinton is among 19 members of the litigation and labor section. She works in a corner office on the third floor of the Rose building, a converted YMCA that has a swimming pool and old hardwood floors. Although she has been away from Little Rock much of the time since Bill Clinton began his presidential campaign last October, her colleagues said she calls in at least once each day.

While Hillary Clinton gave her firm a special status among the big law firms in Arkansas, Rose had ample clout long before the governor's wife was made a partner. Founded in 1820, it is one of the oldest firms west of the Mississippi River. U.M. Rose was among the founders of the American Bar Association and its president in 1900. He is one of two Arkansans whose statues loom in Statuary Hall in the U.S. Capitol. The Rose firm has supplied six Arkansas Supreme Court justices as well as several members of the legislature.

At critical junctures in Arkansas history, Rose lawyers have been at the center of legal action. Rose lawyer A.F. House served as lead counsel for the Little Rock School Board during the historic Little Rock Central High School desegregation case in 1956 and 1957.

The Rose firm is so ingrained in the Arkansas establishment that conflict-of-interest questions frequently arise. Hubbell served as mayor of Little Rock from 1979 to 1981, briefly relinquishing his partnership at Rose, and returning at the end of his term. In 1980, records show, the Rose firm served as bond counsel for $150 million worth of municipal bonds. The city Facilities Board gave the work to Rose on the recommendation of Watt Gregory, who also worked at Rose and who had served as bond attorney for the city the previous year.

"Obviously, the situation creates problems of appearance," John DiPippa, associate dean at the University of Arkansas-Little Rock law school, said of Hillary Clinton. "Even when technically there is no problem, the question is whether it looks good." But, he said, "I think Rose has dealt with it properly."

Clients of Hillary Clinton's Firm Include State, Powerful Businesses

ROSE, From A1

represents, since they rose to state power more than a decade ago.

They had to answer them again before a national audience last week—just as Clinton emerged as the front-runner for the Democratic presidential nomination—when newspapers reported Rose's pleadings before the state for the owner of a failing savings and loan with whom the Clintons were participating in an unrelated real estate venture.

For their old friends and supporters, the recent accounts gave short shrift to difficulties faced by a professional woman who happens to be married to the state's dominant political figure, and to Hillary Clinton's efforts to separate the interests of her clients from those of the government her husband leads.

"If you are going to be a high-powered lawyer, it would be pretty hard to separate yourself from the economic power of the state," said Clinton adviser Diane Blair, a political science professor at the University of Arkansas.

But Clinton rivals say that the very listing of the governor's wife as a partner gives Rose's clients undue leverage in their dealings with state government. "If you want something special in this state, you go to the Rose firm," said Sheffield Nelson, a Little Rock lawyer who lost to Clinton in the 1990 governor's race.

Until recently, Hillary Clinton has sought to disarm critics by saying she did not represent clients before the state government, and that she declined her share of Rose's fees from such cases. Her alleged role in the Madison Guaranty Savings and Loan case appears to crack the image of arms-length distance.

The case dates back to 1985, when Madison Guaranty was under pressure from federal regulators to increase its ratio of capital to assets. The Rose firm asked the state security commissioner to approve in principle a plan by the thrift to issue preferred stock. Hillary Clinton was listed in the initial pleading as one of two lawyers to contact. She received the letter of approval from the commissioner, who had just been appointed to the post by the governor.

Campaign officials denied that Hillary Clinton played an active role in handling or landing the case. Madison Guaranty's principal shareholder, John McDougal, was an old friend of Bill Clinton's, who had brought the Clintons into the real estate deal in the Ozarks several years earlier.

Last week, McDougal's wife Susan, who was a major shareholder in the thrift, disputed the campaign's version, saying that Hillary Clinton actively solicited the case.

Webster L. Hubbell, a senior partner at Rose, said Hillary Clinton did "some work" for Madison Guaranty, but not a major share. He declined to give further details, citing the confidentiality of attorney-client relations.

Hillary Clinton has not commented on the matter. Among the unanswered questions is when she stopped profiting from the Rose firm's representation before the state on other matters such as bond sales. As late as 1986, she was quoted as saying she would disclose those benefits if one of her husband's political rivals disclosed how much he earned in fees from an underwriter who did bond work for the state.

A list of the Rose firm's clients is an introduction to the financial power of Arkansas. Although one of the nation's poorest states, it is home to some of the wealthiest corporations, from Wal-Mart Stores, America's leading discount merchandiser, to Tyson Foods, the top chicken processor.

The Rose firm offers the full range of representation before the government, from getting environmental approvals from the state Pollution Control and Ecology Commission, to lobbying to protect the poultry industry from strict regulations on animal waste, to writing the rules by which corporations treat their shareholders.

When the elders of Arkansas' corporate world formed a group in 1986, known as "The Good Suits Club," they set out to make the state's laws of incorporation more amenable to business interests. For political support, they turned to Bill Clinton, who made their purpose part of his administration's legislative package and promoted it in hi State of the State address. For leg acumen they hired Rose, whic drafted the 397-page treatise ar lobbied to help get it enacted a fe months later.

One of Rose's most lucrative c ents is the state government, whi has issued a number of nonbid cc tracts to Rose, as well as to oth leading firms here, during Clinto years as governor. The Public S vice Commission, appointed by C ton, paid $115,000 to Rose to r resent it in a nuclear power pl dispute with Mississippi.

Rose has earned up to $175,0 for bond counsel work for the kansas Development Finance A thority since 1985. Although t firm is not the leading earner bond counsel fees, it did not ha any of the state business in m early years of the decade, accord to state records.

Hillary Clinton's work at Ros just one part of her professional l She has led several task forces her husband, including a 1983 pa that reformed the public educat system. She is a frequent witnes legislative hearings on issues d ing with schools and children. also serves on the board of dir tors of two major corporations: W Mart and TCBY Enterprises, a gurt company.

Asked about her role with th companies, Hillary Clinton o said she did not see a conflict cause they were not chartered directly regulated by the st even though they were based h Bill Clinton's financial disclos forms indicate that Hillary m more than $12,500 per year se ing on each of the Wal-Mart TCBY boards.

For several years, Bill Clin has had a special fund he has u to promote his legislative agenda the public through paid advertis Records show that Frank Hickingbotham, chairman and ecutive director of TCBY Ent prises, contributed $25,000 to fund in 1989.

Hillary Clinton joined the R firm in January 1977 when the C tons moved from Fayettev where they both taught at the versity of Arkansas law scho Little Rock, where Bill Clinto gan a two-year term as atto

TRANSMITTAL MEMORANDUM **LEGAL DIVISION** **PROFESSIONAL LIABILITY**	**RESOLUTION TRUST CORPORATION** **1717 H STREET, NW** **WASHINGTON, DC 20006**

DATE: July 14, 1994

TO: Thomas L. Hindes
Mark Gabrellian

FROM: Paula Stone
Legal Technician

RE:

An incident occurred on July 14, 1994 which very much upset me and which I felt that each of you should be made aware. I had taken sick leave on July 13, 1994; and upon returning to work on July 14th, a message had been left on my voice mail by Andrew Tomback's paralegal Marsha Miller. In addition, Marsha also left a handwritten note asking that I call her re: my "Madison Guaranty" news search and a copy of a front cover page of the "Department of Treasury News Clip" publication on my chair. I returned Marsha's call at approximately 10:00am.

Marsha informed me that although Mr. Tomback felt that our daily news clips were necessary, he was not sure that it was necessary to retrieve the information from the "Lexis" automated resource because of cost effectiveness in printing such information. Marshall also stated that Mr. Tomback suggested that I register with the Department of Treasury's distribution list for the DOT "News Clip" and distribute copies of the DOT's information in place of our Nexis news clips. She gave me the name of a contact person whom she said that Mr. Tomback said I could use to find out information regarding the DOT "News Clips". The contact was *Hamilton Dicks* and a phone number (202) 622-1295. Marsha also stated that according to Mr. Tomback I should (could?) use his name when speaking with the contact person. I left a message for whom I assumed was a Mr. Hamilton Dicks (turned out to be Ms.) To the best of my knowledge, the message went as follows: I stated my name and the agency from which I was phoning. I also stated that Mr. Tomback office had given me her name as someone who may be able to help me. I stated that we had a distribution of daily **MADISON** news articles, and I was trying to find out if/how we could get on the DOT's new clip distribution. I asked that she return my call if she could help me, thanked Ms. Dicks, left my phone number and hung up.

I wasn't sure why this assignment had not gone through Mark Gabrellian, or why it was through Marsha Miller for Andrew Tomback. Since I was not sure, after leaving a message with Ms. Dicks office, I immediately forwarded the attached e-mail to Mark

Gabrellian. (see attachment).

After not hearing from Ms. Dicks, I telephoned her at approximately 2:30pm. She answered and stated that she could talk to me. I asked why. She stated that she has reported the information which I had left on the answering machine to her supervisors; and that they immediately requested that she turn my name, phone #, etc. over to them ASAP because I has made an "INAPPROPRIATE" phone call. I asked if the DOT new clips were public distribution. Ms. Dicks stated that she didn't know. I also asked that she please explain what actions I had taken to upset everyone. She again stated that I had made an "INAPPROPRIATE" phone call, and stated that she could not talk to me. Ms. Dicks hung up.

Confused, I phoned Marsha and asked what was going on. I relayed some of my conversation with Ms. Dicks to Marsha. I told her that it was stated that I had made and inappropriate phone call, although I didn't know why it was inappropriate. She asked again why the call was inappropriate. When I explained that I did not know, she asked me to forward her an e-mail so that she could speak with Mr. Tomback about the matter. (I have not written the e-mail).

After debating, I then called Hamilton Dicks back. I explained to her that if I were going to be in some kind of trouble, I at least expected someone to have the decency to tell me what I had done. I also stated to her that I needed to know this information so that I could give my supervisors an explanation of this bazaar day. I also expressed that I was just looking for news articles. Ms. Dicks reluctantly explained to me that although she shouldn't be taking to me, she understood how I felt. She went on to say that I had been put in an awkward position by being given the assignment because of the sensitive contact nature between the RTC and the Department of Treasury. She stated that because I had used a single word in my phone message, (I found out that the word was **MADISON**) specifically was the reason for my being reported to her supervisors. Ms. Dicks also stated that when reporting the incident, she informed her supervisors that she thought that my call was innocent but had to be report because of the mention of the word **Madison**. I asked again if DOT "new clips" were public distribution and she stated that she did not know. She also told me the following: that no one would have even cared about my phone call if I had not mentioned the word MADISON, and that she felt that I had been put in a bad position and that it was my fault for not knowing how that call should have been made. I thanked her for speaking with me and apologized for not knowing the proper procedures when speaking with DOT and I began to prepare this statement.

While away from my desk, a message and phone no. (202) 622-2910 was left on my answering machine from a (spelling) Horat Shraut from the DOT Public Affairs Offices. I of course did not return the call.

On July 15, Marsha phoned again requesting that I forward to her an e-mail regarding yesterday's events, so that she could speak with Mr. Tomback. I still have not forwarded the infor. and will not do so until I have either spoke with M. Gabrellian or T.

Hindes.

I was very upset be the incident which occurred July 14, because I have participated on the Madison team for over a 6 month period. I have handled all assignments with great confidentiality and professionalism. I was given an assignment which should have been very minor. I definitely apologize for my part in this incident, but I also feel that I should have been informed that there was a sensitivity regarding how I can address a matter when in discussion with personnel from the DOT. I was not informed that I could not use the word "Madison" generally or otherwise to complete this minor assignment. To the best of my knowledgde and as accurately as I can recall, these are the events which occurred yesterday.

To: Mark Gabrellian@Legal-pls@RTCDC
Gloria M. Berry@Legal-pls@RTCDC
Cc:
Bcc:
From: Paula D. Stone@Legal-pls@RTCDC
Subject: Lexis news clips
Date: Thursday, July 14, 1994 10:05:55 EDT
Attach:
Certify: N
Forwarded by:

I received a call this morning from Andrew Tomback's paralegal, Marsha Miller. She informed me that Mr. Tomback has put forth several suggestions regarding "improving" our methods of retrieval/distribution for the inhouse Madison Nexis news clips. According to Marsha, Mr. Tomback feels that it may be a waste of time and money to pull the Madison information up on Nexis each morning. He has suggested that we join the distribution list of the Departmt. of Treasury's daily "News Clips". I have phoned the DOTreasury and am awaiting a return call from Mr. Hamiton Dicks re: sources/subject matter of new clips; distribution methods; and registering for distribution, if applicable to us, etc. I wanted to speak with the both to get you thoughts after I speak directly to Mr. Dicks. Please let me know if you have ever seen the Dept of T. new clips, and your thoughts on Mr. Tombacks suggestion and maybe no longer having to put together an inhouse "new search".

To: Paula D. Stone@Legal-pls@RTCDC
Cc: Gloria M. Berry@Legal-pls@RTCDC
Bcc:
From: Mark Gabrellian@Legal-pls@RTCDC
Subject: re: Lexis news clips
Date: Thursday, July 14, 1994 15:13:09 EDT
Attach:
Certify: N
Forwarded by:

Go ahead and get the info from Treasury, but don't make any changes until I get back in the office on Monday. I can't imagine that Treasury's news clips are much different from ours. Thanks.

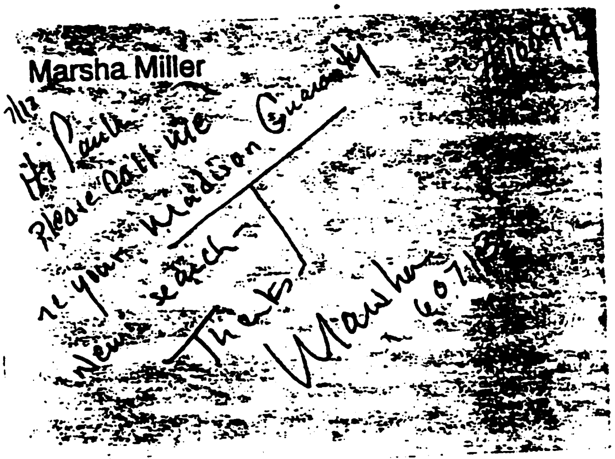
Inappropriate phone calls

Hamilton Dicks

July 12th

Contact 622-1295
Hamilton Dicks

How do I get on the distrib. list



Marsha Miller

7/12
Hi Paula
Please call me
re your Madison Guaranty
News search—
Thanks
Marsha
6071

— We do a Madison
News clip daily distribution

I'm very upset that I
was asked to complete
what appeared a simple
task, [illegible] but which was NOT
specified [illegible] should have
been completed by not
mentioning the word "Madison"
I had NO Idea to was
following up.
Pete.

Hoaat

Horat

Shraut

622-2910

Public Affairs

Treasury -
= 622-1295

DEPARTMENT OF THE TREASURY

NEWS CLIPS

1789

Compiled in the Office of Public Affairs

DAILY NEWS SUMMARY

WEDNESDAY, JULY 13, 1994
8:15 A.M.

RTC
ANDY TOMBACK
1717 H ST. NW
RM. 3141

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(202) 226-4247

February 3, 1994

Mr. Roger C. Altman
Interim CEO
Resolution Trust Corporation
801 17th Street, NW
Washington, DC 20434

Dear Mr. Altman:

I am in receipt of your February 1, 1994 response to the letter initiated by Senate Republican leadership concerning Madison Savings and Loan and I am pleased to learn that the RTC "will vigorously pursue all appropriate remedies" with regard to Madison's failure. It seems self-apparent that in order for the RTC to pursue vigorously all remedies it must have all relevant information at its disposal. Accordingly, I urge the RTC to seek and review all Whitewater Development Corporation documents turned over by the White House to the Justice Department.

In its investigation of Madison, the Minority has uncovered links between Madison and Whitewater, some of which may have contributed to the thrift's failure. Not only did James and Susan McDougal hold significant ownership interest in both entities (approximately two thirds in Madison and one half in Whitewater), but the other joint owners of Whitewater (Bill and Hillary Clinton) appear to have benefited directly and indirectly from the application of Madison resources. [See the attached memo.]

If the White House chooses to use the Justice Department to shield Whitewater documents not only from the public and Congress, but from other government agencies, such as the RTC, which have legitimate public law enforcement responsibilities, it is hard to believe a responsible resolution of the issues involved can be made by regulatory authorities.

I have high regard for your personal integrity, but as you know, from the beginning, it has been an awkward situation to have a presidentially appointed and confirmed officer of the Treasury Department also head an independent federal agency, the Resolution Trust Corporation (RTC). When this prospect was first suggested at the beginning of the Clinton Administration, it did

on December 9, 1993, I wrote the RTC requesting access to all documents related to Madison Guaranty and its subsidiaries.

House and Committee Rules, House practices, and judicial precedent support the proposition that the Ranking Minority Member is the functional counterpart to the Chairman for Committee action. This being the case, a request for documents made by the Ranking Minority Member has parallel standing with a request made by the Chairman of the Committee. The Ranking Minority Member clearly has a voice in the process and is entitled to information that will enable the Ranking Minority Member to carry out his constitutionally mandated oversight responsibilities.

Therefore, the courtesy of a definitive reply to this document request is requested by 12 noon, Monday, February 7, 1994. On this matter, it is urged that you also consult with the Ethics Office as to the relevance of the previously discussed recusal issue.

Again, let me stress that to the degree a conflict situation may exist in this matter in no way reflects on your personal integrity. It is simply an awkward circumstance in contrast to a personal embarrassment.

Sincerely,

JAMES A. LEACH
Ranking Member

JAL:gp

Enclosure

- The check McDougal enclosed with his letter to Mr. Campbell is a Whitewater Development Corporation check dated November 7, 1985. The loan number referenced on the memo portion of the check is "Note #975-585."

- According to the check ledgers for the Whitewater Development Corporation (WDC), the corporation's checking account had the following balances: $189.50 on 10-10-85; and, $12.49 on 10-31-85. However, in order to cover the payment of $7,322.42 on the Clinton loan, a deposit is recorded on November 8, 1985 in the amount of $7,500.00. The deposit is listed as coming from "Madison Marketing."

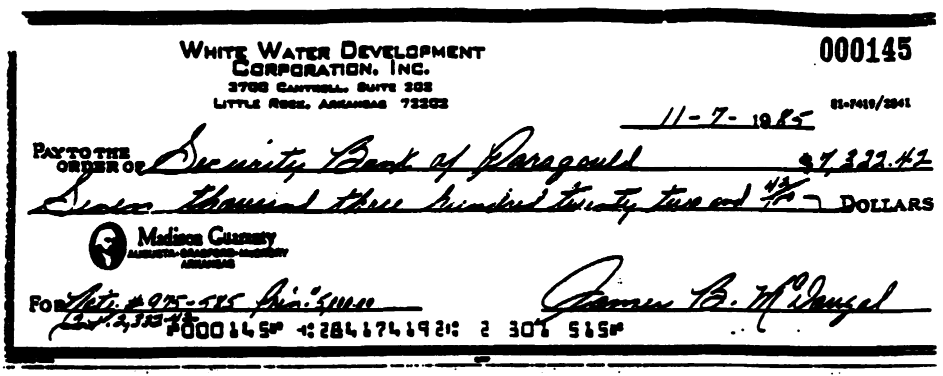
- A 1986 Federal Home Loan Bank Board exam gives the impression that Madison Marketing was largely a sham corporation used to divert federally insured resources to insiders. The exam notes that "Until 1986, Susan McDougal owned Madison Marketing." The report also states the following:

  > "Madison Marketing is paid for doing all the general advertising for Madison Guaranty and most of the advertising for Madison Financial's land development projects. All of Madison Marketing's business is derived from Madison Guaranty or its subsidiaries. Since 1983 these payments total $1,532,000."
  >
  > "Given the evidence of Madison Marketing's invoices, it is questionable how much of these advertising services are actually performed by the firm. The actual work ... appears to be performed by others. It would appear that Madison Guaranty could have an employee perform similar work for much less money."
  >
  > "Mr. Latham [an officer of Madison] stated that Madison Marketing made no payments to any stockholders. This statement is false. As part of a test for such payments, the examiners discovered two remittances from Madison Marketing to Susan McDougal [a large stockholder of Madison] which total $50,000. This was a test, and there may be additional payments."

CONCLUSION

Given the above circumstances, it would appear that federally insured deposits (i.e., funds from Madison Guaranty through Madison Marketing), which, with the later failure of Madison became, in effect, taxpayer obligations, were transferred for the direct personal benefit of the former Governor.

The above payment also raises the question of whether Whitewater



WHITE WATER DEVELOPMENT
CORPORATION, INC.
3700 CANTRELL, SUITE 202
LITTLE ROCK, ARKANSAS 72202

000145

81-7419/2841

11-7- 1985

PAY TO THE ORDER OF Security Bank of Paragould $7,322.42

Seven thousand three hundred twenty two and 42/100 DOLLARS

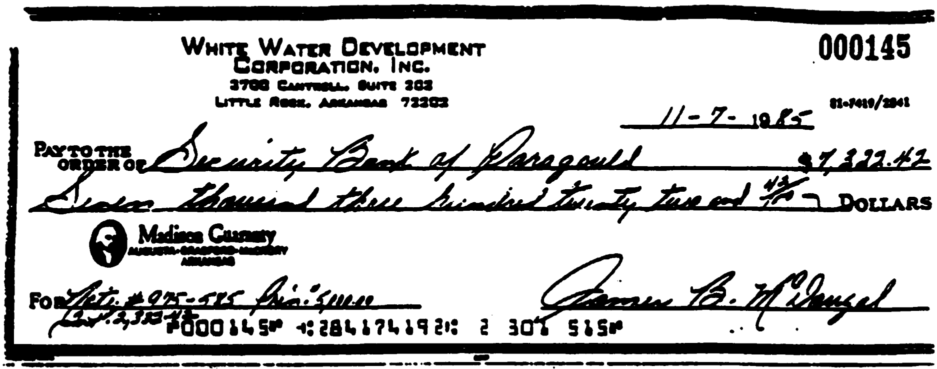
Madison Guaranty
AUGUSTA-BRADFORD-HICKORY
ARKANSAS

FOR Acct. #975-585 Prin. 5000.00
Int. 2,322.42

James B. McDougal

000145 284174192 2 307 515

Account notation on check is different from notation on McDougal letter—



WHITE WATER DEVELOPMENT
CORPORATION, INC.
3700 CANTRELL, SUITE 202
LITTLE ROCK, ARKANSAS 72202

000145

81-7419/2841

11-7- 1985

PAY TO THE ORDER OF Security Bank of Paragould $7,322.42

Seven thousand three hundred twenty two and 42/100 DOLLARS

Madison Guaranty
AUGUSTA-BRADFORD-McCRORY
ARKANSAS

FOR Acct. #975-575 Prin. 5,000.00
Int. 2,322.42

James B. McDougal

⑈000145⑈ ⑆284174192⑆ 2 301 515⑈

Account notation on check is [illegible] different from notation on McDougal letter –

22 p.

FILED

MAR 14 1991

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
SECOND DIVISION

[redacted] GUARANTY SAVINGS AND LOAN ASSOCIATION, a State Chartered Savings and Loan; MADISON FINANCIAL CORPORATION, a Wholly Owned Subsidiary of Madison Guaranty Savings and Loan Association,

Plaintiffs,

vs. No. 88-1193

[redacted], an Arkansas Professional Association, and its directors James Alford, Michael Robinson, Gary Grey, Gaines Norton, Tim Gibbon, Steve Humphries, Alan Duncan, Frank Butts, Marjorie Itzkowitz, John Does A, B, C, D

Defendant.

FIRST AMENDED COMPLAINT

COMES NOW, Plaintiffs, and for cause of action states a follows:

I

PARTIES

1. Plaintiff Madison Guaranty Savings and Loan Associatio (hereinafter, Madison Guaranty) is a state savings & loa association duly chartered under the laws of the State o Arkansas. Plaintiff Madison Financial Corporation (hereinafter Madison Financial) is a state chartered corporation and wholl owned subsidiary of Madison Guaranty.

2. Defendant Frost & Company is a professional associatic or partnership of public [redacted] with its principal place c business in Little Rock, Arkansas, comprised of the followir individual partners who are set forth as Defendants in paragra 3.

3. Defendants James Alford, Michael Robinson, Gary Gre Gaines Norton, Tom Gibbon, Steve Humphries, Alan Duncan, Fra Butts, Marjorie Itzkowitz, John Does A, B, C, D are directors

FEDERAL HOME LOAN BANK BOARD
OFFICE OF EXAMINATIONS AND SUPERVISION

Name and Address of Institution MADISON GUARANTY SAVINGS AND LOAN ASSOCIATION

1501 MAIN STREET, LITTLE ROCK, ARKANSAS 72203

District Number NINE Docket Number 7601

Examination as of (date) MARCH 4, 1986

Service Corporations and Other Affiliates Examined:

MADISON FINANCIAL CORPORATION

REPORT OF EXAMINATION

Prohibition of Disclosure or Release

This document is the property of the Federal Home Loan Bank Board and is furnished to the institution for its confidential use. Under no circumstances shall the institution, or any of its directors, officers, or employees, disclose or make this document or any portion of it public in any manner.

If a subpoena or other legal process is received calling for production of this document, the District Director - Examinations should be notified immediately. The attorney at whose instance the process was issued, and, if necessary, the court which issued the process, should be advised of the above prohibition, and referred to Part 505 of the General Regulations of the Federal Home Loan Bank Board.

Directors, in keeping with their responsibilities, should review this report thoroughly. This report should not be considered an audit report.

FHLBB Form 250

Docket No. 2601

~~represents~~ most of the commissions paid by Madison Financial to Madison Real Estate, which significantly derives all of its business from Madison Financial.

Many of the sales, which generated these commissions, were to McDougal-Henley Group members who are acting as straw buyers. Madison Guaranty essentially retained the risks of ownership on these transactions because it fully financed these sales including the cash sales commissions. Thus, Madison Guaranty's position deteriorated because it retained the same ownership risks as before, but paid cash fees to these individuals. In addition, fees paid through Madison Real Estate were used as down payments in some of the straw land purchases in an apparent attempt to disguise 100% funding of the purchase by Madison Guaranty and its subsidiaries.

[illegible]

K

Le

Messrs. McDougal and Latham cited an April 24, 1985 letter from a Federal Home Loan Bank of Dallas Supervisory Agent as permission to pay real estate sales commissions to Madison Real Estate. However, this letter in part, asks that the Board of Directors review Insurance Regulation 571.7 which is cited above in this comment.

2. Madison Marketing

Madison Marketing is paid for doing all the general advertising for Madison Guaranty and most of the advertising for Madison Financial's land development projects. All of Madison Marketing's business is derived from Madison Guaranty or its subsidiaries. Since 1983 these payments total $1,532,000. Until February 1986, Susan McDougal owned Madison Marketing. During a portion of this time, it was a corporation which was incorporated by Lisa Aunspaugh, reportedly a close friend of Susan McDougal.

Mr. Latham stated that after February 1986, Madison Marketing became an entity "d/b/a (doing business as)" for Madison Financial and ceased to be a corporation. However, it is not registered as a "d/b/a" in the County records. Also, its checking account has never been recorded on the books of Madison Financial.

Given the evidence of Madison Marketing's invoices, it is questionable how much of these advertising services are actually performed by the firm. The actual work of advertising, such as the design and production of commercials and providing air time or newspaper space, appears to be performed by others. Madison Marketing apparently just pays the bills of other providers and adds a 15% fee of its own. Examiners estimated this fee to be approximately $200,000 since 1983. It would appear that Madison Guaranty could have an employee perform similar work for much less money.

X

Mr. Latham stated that Madison Marketing made no payments to any stockholders. This statement is false. As a part of a test for such payments, the examiners discovered two remittances from Madison Marketing to Susan McDougal which total $50,000. This was a test, and there may be additional payments.

3. Designer's Construction

[illegible] on this

Designer's Construction performs construction work on some of the land development projects and on some of the property securing Madison Guaranty loans. In 1985 and to date in 1986, $247,000 was paid for work performed for Madison Guaranty and its subsidiaries. The amount of loan proceeds paid to Designer's Construction on work for third party borrowers is unknown. Designer's Construction appears to be a

WHITEWATER/MADISON: CIVIL SUIT

Question:

Secretary Altman, last year you sent a letter to this committee indicating that the RTC had never missed a statute of limitations deadline, and that therefore an extension of the statutes was not necessary. Apparently no civil suits against directors, officers, or law firms involved with Madison were brought. Does this mean that the Madison situation was reviewed and that a decision was made at some point in the past that a suit would not be brought? When was this decision made?

Answer:

- **For all the reasons described above, it is not appropriate to discuss an individual case at this time.**

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

February 1, 1994

The Honorable Alfonse M. D'Amato
Ranking Minority Member
Committee on Banking, Finance
and Urban Affairs
United States Senate
Washington, D.C. 20510

Dear Senator D'Amato:

On January 11 and January 25, 1994 you wrote to me concerning the statute of limitations relating to Madison Guaranty Savings and Loan of McCrory, Arkansas ("Madison"). I want to assure you that the Resolution Trust Corporation is conducting a thorough review of the potential civil claims it possesses as a result of the failure of Madison. The RTC is, of course, mindful of the impending February 28 anniversary date of the federal takeover of Madison.

If such claims do exist, the RTC will vigorously pursue all appropriate remedies using standard procedures in such cases, which could include seeking agreements to toll the statute of limitations. As you noted, the barriers presented by the expiration of the statute of limitations in many cases have been ameliorated by the extension of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA) statutes in the RTC Completion Act (Act). The Act has afforded the RTC an opportunity to investigate further any civil claims which may be asserted against individuals or entities associated with Madison Guaranty for fraud, intentional misconduct resulting in unjust enrichment, or intentional misconduct resulting in substantial loss to the institution. As you know , the RTC's jurisdiction is solely as to civil claims. Any potential criminal matters are within the jurisdiction of the Justice Department.

Sincerely,

Roger C. Altman
Interim CEO

801 17th Street, N.W. Washington, D.C. 20434

SECRETARY BENTSEN Q & A: Q 1

Question:

What involvement has the Oversight Board had with respect to the RTC's investigation into Madison Guaranty?

Answer:

The Oversight Board is not involved in matters involving specific RTC investigations, and it has had no involvement in this matter.

RTC FOLLOW-UP TO SENATE REQUESTS MADE AT OVERSIGHT BOARD HEARING FEBRUARY 24, 1994

REQUESTOR	ASSIGNMENT	RESPONSIBLE OFFICE	TIMEFRAME
1. Sen. D'Amato	Review of OCOS Report on Rose Law Firm Who should the Report go to initially within the Agency?	I.G.	
2. Sen. Bond	List concerning chronology and other questions posed by him (not specified in hearing to be obtained in writing -- also to be requested by FDIC).		
	a. Will Pillsbury, Madison & Sutro review decisions on who will be sued in the Madison matter.	?	
	b. Identification of outside counsel on Madison.		
	c. Copy of entire list of documents in Madison.	Kulka/ Hindes	1 week
	Report from the Department of Records Management about whether any missing documents in our Madison documents or empty files. Report on instructions of handling of documents from outside or missing documents.	Collishaw JoAnn Henry	
	Report on information which confirms, clarifies or corrects Susan McDougal's statement that Whitewater's files were delivered previously by ? to Hillary Clinton.		
	Report on what documents were kept (by whom) and inventory of documents.		

Do we have an inventory & something which shows where we found gaps.

-Igo/n Abrt?

Do we have anything on this.

What kinds of records do we have that speaks to this.?

Do Nexus search

We need someone who can describe the entire process: Jack Casey's trip to K.C.

What have we done post-request to track & control & safeguard records.

3. Sen. Boxer	Report on the appearance ~~of~~ an actual conflicts of law firms (also ~~this~~ request limited to law firms) who represented the RTC in the 6 largest institutional failures identified by Sen. Boxer at hearing. Request was also made of the FDIC.	Collishaw/ Polvinale	
4.Sen. Bennett	Review and respond to Sen. Bennett's statement for the record reverse discrimination.	Booker/ Cooper	
	b. Respond to statement that RTC has predetermined price at which a bidder can purchase property inappropriately (obtain information from Bennett's staff of the specific asset he personally declined to purchase.)	Horton/ Legal	
5.Sen. Kerry	Report on PLS recovery broken down by those which are criminally related and those which are civil and also broken down state by state.		
FOLLOW-UPS	Clarification to Bond on any limitations of information to be provided to Congress on Madison.	FOIA limitation / Fiske / Policy on open invest.	
[illegible]	Report on Independent Counsel's position on release or RTC information on Madison (letter to Independent Counsel on seeking his position on release of information).	Kulka/ Hindes/ Binkley	1 week
	FDIC report on the Lassiter/Rose matter re FSLIC.		

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

February 24, 1994

MEMORANDUM TO: Jack Ryan
Deputy CEO

MEMORANDUM FROM: Peter Knight
Director
Office of Governmental Relations

SUBJECT: Senate Oversight Board Hearing
February 24, 1994

The following requests were made to the RTC during the hearing. The early part of next week we should be receiving the transcript and further written questions from the Committee. OGR will coordinate the assignments at that time.

Senator Kerry: Listing of PLS recoveries by state. (Legal)

Senator Boxer: Investigation of the outside counsel retained in the six "mega" thrifts controlled by RTC for any conflicts or appearances of conflicts. (Legal)

Senator Bennett: Follow up on the sale of a property mentioned by Senator Bennett. (Assets, OGR to obtain specifics)

Senator Domenici: Release of all records pertaining to Madison if the Independent Counsel approves such a release. (Legal)

Investigation of the Rose law firm by the Inspector General. (IG)

Senator Bond The "latest" inventory of Madison documents and any previous inventories. (OGR and Legal)

cc: E. Kulka
T. Horton
J. Adair

DONALD W. RIEGLE, JR., MICHIGAN, CHAIRMAN

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CHRISTOPHER J. DODD, CONNECTICUT
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HOWARD A. MENELL, REPUBLICAN STAFF DIRECTOR

United States Senate
COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS
WASHINGTON, DC 20510-6075

REPUBLICAN STAFF FAX COVER SHEET

TO: Peter Knight

FAX #: 416 4690

FROM: Doug Nappi/Howard Menell

DATE: January 25, 1994

NUMBER OF PAGES (INCLUDING THIS SHEET): 3

COMMENTS:

Please call (202)224-1572 if you have not received all pages.

DONALD W. RIEGLE JR., MICHIGAN, CHAIRMAN

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HOWARD A. MENELL, REPUBLICAN STAFF DIRECTOR

United States Senate
COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS
WASHINGTON, DC 20510-6075

January 25, 1994

Mr. Roger Altman
President Interim and
Chief Executive Officer
Resolution Trust Corporation
801 17th Street N.W.
Washington, D.C. 20434

Dear Mr. Altman:

I am writing to you in connection with the letters of January 11, 1994, to Attorney General Janet Reno and yourself, expressing the grave concern that I and a number of my colleagues have regarding the expiration of the applicable statutes of limitations with respect to possible wrongdoing at Madison Guaranty Savings and Loan ("Madison"). We urged that voluntary agreements tolling the statute of limitations be sought with all the relevant parties. That letter addressed the urgent need for immediate action with respect to any violations that may have occurred, since the applicable statute of limitations may expire as soon as March, 1994.

More than two weeks have passed since we raised this vital issue. In his public comments, Special Counsel Fiske has already demonstrated his recognition of, and sensitivity to, the applicable criminal statutes of limitations.

I have yet to be apprised of what action, if any, the RTC has taken to ensure that the applicable civil statute will not expire. The American people have the right to know if any wrongdoing took place in connection with Madison. It is equally important that the rights of the American people to obtain a full accounting against wrongdoers be preserved.

The RTC should do all in its power to protect the American taxpayer by making a definitive interpretation of precisely when the civil statute of limitation will expire, and then take action to voluntarily seek agreements from potential parties to RTC-initiated legal actions. Should the statute of limitations run, any findings that the RTC makes will be meaningless--there will be no hearing and the American people will be left without complete redress.

Members of the Banking Committee staff have discussed the need for meaningful action with representatives of the RTC. My staff was informed that the RTC had not yet made a final analysis with respect to the expiration of the statute of limitation. They were also informed that no response was immediately available, more than two weeks after this issue was raised--this is inconceivable and unacceptable.

In light of the RTC's failure to respond to these concerns for over two weeks, I am compelled to write again to ascertain what action the RTC has taken, so that I may consider alternate avenues that I can pursue in order to protect the interest of the American people with respect to this matter. I can see no reason for further delay on your part. Please provide me with your conclusions as to the application of the relevant statute of limitations with respect to the Madison situation immediately.

Sincerely,

Alfonse D'Amato

Alfonse M. D'Amato
Ranking Republican
Senate Banking Committee

AMD:dn

Statement by

Representative James A. Leach

before the

U.S. House of Representatives

March 24, 1994

Mr. Speaker, I rise to a point of personal privilege of the House.

In rising to this point of privilege, I wish to express concern about the breakdown of comity that has occurred on a personal and procedural level in the House Banking Committee.

On a personal level unfortunate adjectives have been used; on a procedural level unprecedented tactics have been employed.

I don't wish to dwell on the personal, except to stress my high regard for the Chairman of the Banking Committee and to suggest that, as the theologian Reinhold Niebuhr once observed, the temper and integrity of the political debate is more important in our kind of democracy than the outcome of any issue.

Motivational aspersions are no substitute for full disclosure; indignation no substitute for pursuit of truth.

Members of the Majority may be speaking the truth when they indicate they have no evidence of a link between the failure of an Arkansas S&L and Whitewater and that they know of no improprieties at issue. But it should be understood that not speaking an untruth is not the same as describing a truthful situation, particularly if there has been no serious effort to pursue the truth.

Constitutionally it is the duty of Congress to oversee breaches of law or public ethics in the Executive Branch. During the 12 years of the so-called "divided government" of the Reagan/Bush era, the Legislative Branch took its Constitutionally-mandated oversight function seriously, as witnessed by the expansion in the size of its staff and the number of investigations undertaken.

Now both the Executive and the Legislative Branches of government are controlled by the same political party. The oversight mandate thus falls disproportionately upon the Ranking Members of the respective Committees for those areas of the Executive Branch over which they have jurisdiction. Not to assume leadership in performing the oversight function with regard to the way in which the financial institutions of this country are managed and regulated

would be to violate my oath to "support and defend the Constitution of the United States . . .and . . .well and faithfully discharge the duties of the office."

If the majority party refuses to uphold its responsibilities because of political embarrassment to its party's top elected official, the minority party is left with the choice either of joining in a complicity of silence or pursuing investigations that run the danger of being partisan.

In this context, I would simply emphasize that I raised the Whitewater issue with great reluctance, realizing the import as well as the power of the Presidency. I fully understand the political and personal liabilities involved. Nonetheless, I feel it would be inconsistent, indeed, hypocritical, to my own values, if I refused to pursue a line of inquiry potentially embarrassing to the President of a country which from its inception was intended to be hallmarked by law and its applicability to all citizens. It is, after all, the establishment of a government of laws, not men, that defines the uniqueness of the American experiment with democracy.

Procedurally, it should be noted that the Minority is currently engaged in one of the most profound checks and balances philosophical engagements with the Executive branch in the modern history of the Congress. This engagement carries far greater implications than any judgement relating to a particular embarrassment of a particular public official at a particular time because at issue is precedent: whether in future circumstances the oversight capacities of Congress can be thwarted if the Majority party of Congress is the same as that in control of the Executive branch and chooses to refrain from its oversight obligations in order not to embarrass its party's standings.

It is possible that the Constitutional precedent for our checks and balances system surrounding the refusal of the Administration to cooperate with an oversight probe of the Executive branch which the majority party does not sanction may have more long-term negative consequences than any episodic embarrassment that might relate to this or any President's past. What is at issue is the definition of Congress as it applies to the Constitutionally granted oversight responsibilities of the legislature. In our checks and balances system, Congress was given oversight responsibilities, but this Administration is suggesting in response to minority requests for documentation from Executive agencies that only Chairmen speak for Congress. The minority in Congress, by this logic, has no power to advance or fulfill its Constitutional rights if the majority does not concur in request for information. If such precedent is allowed to stand, Congress's oversight capacities will for all practical purposes be hamstrung whenever the Executive and Legislative branches of government are controlled by the same party. Would our founding fathers have had this in mind?

In this connection, on December 9, 1993, as Ranking Member of the Banking Committee, I wrote federal regulatory agencies to request certain documents of an oversight interest (**Example, Tab A**). In a follow-up letter I pointed out, as the courts have noted, "The Congress rarely acts as a body. Its manifold duties in the legislative, investigative, and oversight fields are almost invariably carried out through committees, committee chairmen, individual members, and staff personnel." Murphy v. Department of Army, 613 F .2d 1151, 1156 (1979). In addition, the court stated:

> "The Senate and the House are so organized that certain legislative and quasi-legislative activities may be accomplished only through committee action. In other respects, however, the legislature acts through its individual Members. All Members have a constitutionally recognized status entitling them to share in general congressional powers and responsibilities, many of them requiring access to executive information. It would be an inappropriate intrusion into the legislative sphere for the courts to decide without congressional direction that, for example, only the chairman of a committee shall be regarded as the official voice of the Congress for purposes of receiving such information, as distinguished from its ranking minority member, or other committee members, or other members of Congress. Each of them participates in the law-making process; each has a voice and a vote in that process; and each is entitled to request such information from the executive agencies as will enable him to carry out the responsibilities of a legislator."

Agency heads responded that a Ranking Member only has the authority of an individual Member of Congress and, therefore, may only obtain information that would be available to the public pursuant to the Freedom of Information Act. In addition, the Office of Thrift Supervision asserted that it differs "with the view that Rules X and XI of the House of Representatives grant to a ranking minority member (or any individual member) the same authority to request information that a committee chairman possesses." In short, the agencies contend that only Chairmen, not Ranking Members, speak for Congress.

Subsequently, on March 8, 1994, I wrote requesting information for the Banking Committee's upcoming RTC oversight hearing (**Tab B**). Agency heads again responded by holding to the position that only the Chairman of a Committee would be permitted access to agency documents.

In this dispute about who is entitled to speak for Congress in the context of Congress' right and obligation under Article I of the Constitution to conduct oversight of the Executive branch, the Chairman of the Banking Committee, in what may have been an effort to bolster the Executive's position, wrote agency heads on March 10, 1994, to suggest that they deny my document request and wrote

separately on March 14, 1994, to state that they need not answer questions concerning Madison Guaranty Savings and Loan at the scheduled hearings. **(Tab C and D)**. The Chairman's letter contained an implicit and unprecedented philosophical assertion that not only does a Chairman have the exclusive right to obtain oversight documents from the Executive branch, but the right to deny such documentation to other Members and the right even to deny inquiries about issues clearly germane to the subject of hearings.

So that there is no misunderstanding, the RTC Oversight hearing was scheduled under requirement of law, Section 21A(k)(6) of the Federal Home Loan Bank Act (12 U.S.C. §1441a(k)(6)), and there is no provision in that law for exceptions to Congressional oversight that relate to a single state and its institutions. The U.S. Congress wrote a law applicable to all 50 states, not 49, and the oversight of our laws applies throughout this country. Just as in America no individual is above the law, no state is beyond its reach. Just as no individual is entitled to violate the law out of ignorance of it, no person, even the Chairman of a Congressional Committee, is entitled after the fact to be sole interpreter of a law's meaning or serve as a censor to another Member's inquiries. Indeed, no Member of Congress has the right or power to deny relevant information to another Member.

In addition to the Federal Home Loan Bank Act, the Committee's role in oversight is buttressed by the House Rules as modified under the Legislative Reorganization Act of 1970. I refer to paragraph 2 of House Rule X providing for the Committee's "General Oversight Responsibilities" which states:

> "(b)(1) Each standing committee ... shall review and study, on a continuing basis, the application, administration, execution, and effectiveness of those laws, or parts of laws, the subject matter of which is within the jurisdiction of that committee and the organization and operation of the Federal agencies and entities having responsibilities in or for the administration and execution thereof, in order to determine whether such laws and the programs thereunder are being implemented and carried out in accordance with the intent of the congress and whether such programs should be continued, curtailed, or eliminated."

Separate procedural rules may apply to an investigative hearing, but such rules do not apply in this case. The statutorily mandated RTC hearing is an oversight hearing in accordance with Rule X. Any reliance on investigative hearing procedures to deny information to Committee Members is misplaced. Any information requests or questions by Members related in any manner to RTC operations are authorized under the Committee's oversight authority. It is also

expected that in answering questions witnesses have the obligation either to assert appropriate privileges or fully respond with answers to the questions (See, 2 U.S.C. §192, Sinclair v. United States, 279 U.S. 263 (1929)) and such answers shall be truthful. (See, 18 U.S.C. §1001, U.S. v. Poindexter, 951 F.2d 369 (D.C. Cir. 1991)).

Moreover, the precedent of the Banking Committee is clear with respect to the relevance of specific questions on specific institutions. On numerous occasions at past RTC oversight hearings, questions related to individual institutions have been asked by Committee Members, including the Chairman, and answered by witnesses. In fact, the Committee's invitation letter of March 3, 1994, to Treasury Secretary Bentsen for purposes of the RTC oversight hearing, seeks testimony and documents related to a specific institution, Homefed Savings. Of relevance also is the following statement last week of the Chairman of the Senate Banking Committee:

> So we have had now over the years since 1989, a very long series of regular oversight hearings where we call in the officials responsible for implementing that law to find out exactly how it is working and if there is a need to change any particular part of it. Is it working the way it was designed to work? Have we corrected all the abuses? We were so concerned about that issue that, in fact, we built into that 1989 law a requirement that there has to be a hearing here in Congress every 6 months on how that cleanup effort is doing and how that law is being implemented. Within the text of that part of the law we went so far as to say that any institutions that failed in that time period, in the mid-1980's, that if any Senator on the committee wanted to come in and ask questions about that particular institution, that they had a right in law to do so. We did not foresee the Madison case at that time, but it applies precisely to the Madison case and every other case out of that time period. (Cong. Rec. S3153, March 17, 1997).

To the degree the Chairman's letters are open to an interpretation that would imply the possibility that they have been requested by the Administration to bolster its efforts to deny information to the Congress and thereby the public, at issue would be a collusive effort by the Majority party in the Congress to aid and abet the Executive branch in its concerted effort to deny disclosure of information related to legitimate Congressional oversight.

In this regard, a letter recently copied to Rep. William Clinger, Ranking Member of the Government Operations Committee, evidences a comparable approach in another committee of Congress (**Tab E**).

It is the Minority's position that Executive branch witnesses must address their obligations to respond to legitimate oversight

requests and legitimate inquiries on the subject of hearings as required by the law and the Constitution, not in conjunction with any arbitrary desire of a Chairman to deny discussion on a subject the Executive branch would rather not forthcomingly address. The Minority party, has a baseline assumption that officials of the U.S. government will comply with the law and, when appearing before a committee of Congress, abide by the Code of Government Ethics for Federal employees to "Uphold the Constitution, laws, and regulations of the United States and all governments therein and never be party to their evasion." (Pub. L. No. 96-303, July 3, 1980, 94 Stat. 855)

The constitutionally-derived obligation of oversight cannot be short-circuited at the whim of the Congressional majority. It is just as much the duty of the minority party, as the majority. Indeed, in real life circumstance as evidenced in this particular incident, oversight may in practice imply a greater obligation on the party out of power than the party in control of the Executive branch.

Hodding Carter, the distinguished journalist from Mississippi, recently noted that Southerners of virtually all philosophical stripes recognized a little or a lot of truth in certain Northern concerns about discrimination that existed in the South in the heyday of civil rights activism. But with understandable resentment all felt that Northerners had a duty to look a little more assiduously in their own backyards. In this probe of Whitewater, I believe an outsider might conclude that the single party concentration of political power in Arkansas may be in need of review that the shadow of Lyndon Johnson and Huey Long may have been cast to greatly on a former governor ship. But as a Northerner, I am obligated to note that my primary responsibility is my backyard, in this case the body to which I am elected to serve. While I believe it would be unfair to suggest that one of America's great political parties is more honest than the other, I believe the concerted effort to avoid accountability and full disclosure in the Whitewater incident, and the unfortunate institutional precedents in process of being established, reflect attitudes more associated with single party governance of closed than open societies. Competition is the American way. When single party dominance is long and deep, arrogance associated with power creeps incontestably into the system. Whitewater, in the end, may tell more about Congress than the Executive branch.

In this context, the Minority raised concerns about the manner in which the RTC Oversight hearing scheduled this week might have been conducted. Nevertheless, the Minority was disappointed the hearing was abruptly postponed.

Postponement of the hearing by the Majority raises, above anything else, the issue of compliance with the law. Compliance with the law is not a matter of convenience or discretion. The Majority party has no prerogative to avoid capriciously its legal obligations.

Hearings mandated by statute were to have occurred by December 3, 1993. It is a statutory obligation of the Majority in the Legislative Branch to conduct on a timely basis RTC oversight; it is the statutory obligation of the Executive to cooperate with Congress and comply with its legal responsibilities.

The negotiations this week between leaders of the House which led to the passage of a bipartisan resolution expressing the sense of the House as to the need to hold bipartisan hearings are promising. The subsequent statements by the Speaker that these discussions were of the "possibility of hearings, not a concession that hearings are not necessarily going to take place," is disappointing. The Majority has an obligation to ensure that the decision to postpone indefinitely RTC hearings does not amount to yet another example of Congress not applying the law to itself.

With regard to a possible hearing, let me stress the Minority has offered to cooperate fully with the Special Counsel. We have transferred substantial information to his office. We have given him our proposed witness list and offered to support a delay in the day of hearings provided under House rules to the Minority to allow him a chance to depose witnesses first. For his part, the Special Counsel, in a meeting on March 17, 1994, with the Minority, said that he would not impede in any manner Executive Branch testimony and that he would not stand in the way of an RTC oversight hearing. Mr. Fiske also stated that he did not object to the disclosure of copies of documents to Congress, other than White House documents. The existence of a Special Counsel appointed in the Madison case cannot be used as a rationale to avoid providing RTC oversight information to Congress.

Congress and prosecuting attorneys have differentiated roles, but they are by no means incompatible. In fact, they are generally complementary. Indeed, in the Banking Committee hearings over the past decade on institutions such as Lincoln (Charles Keating) and Silverado (Neil Bush) the Justice Department had tandem investigations underway. Hearings almost always reveal knowledge and perspective that is helpful to prosecutors. It was, after all, Senator Ervin's committee that revealed the existence of the Watergate tapes and it was the recent Senate hearing that revealed improper contacts between Executive Branch agencies and the White House. The major recent exception where a prosecutor was undercut by Congress involved excessive zeal to embarrass Presidents Reagan and Bush that caused a committee to offer immunity to certain witnesses in the Iran Contra probe. But the more general proposition is that constraining a Congressional inquiry has the effect of reducing knowledge, thus reducing prosecutorial discretion.

Mr. Speaker, in a country in which process is our most important product, it is the belief of this Member that the precedents established in this investigation are more important than the investigation itself. Nevertheless, I come to the floor this

afternoon to present to the attention of the House and the American people some findings, with supporting documentation, the Minority has uncovered in its ongoing investigation of the Whitewater/Madison affair.

Accordingly, I would like to review in both a perspective and information dispensing sense the Madison/Whitewater issue and divide the remainder of my discussion in two categories: what happened and how the Administration has responded.

On the landscape of political scandals Whitewater may be a bump, but it speaks mountains about me-generation public ethics as well as single party control of certain states and the U.S. Congress.

In a nutshell, Whitewater is about the arrogance of power -- Machiavellian machinations of single-party government. It all began in the late 1970s when a budding S&L owner named James McDougal formed a 50-50 real estate venture with a young politician, the then Attorney General of Arkansas Bill Clinton. In this venture called Whitewater, the S&L owner and S&L affiliated entities provided virtually all, perhaps all, the money; the governor-in-the-making provided his name.

Over the years, the company received infusions of cash from the S&L as well as from a small business investment corporation which diverted, allegedly at the Governor's request, federally-guaranteed funds from a program designed for socially and economically disadvantaged people to the Governor's partners and thence, in part, to Whitewater.

Some of these funds were used to pay off personal and campaign liabilities of the Governor; some to purchase a tract of land from a company to which the state had just given a significant tax break. Whitewater records have apparently been largely lost. A review of the numerous land transactions, however, raises questions of what happened to the money that came into the company and a review of the President's tax records raises questions about tax deductions that were taken and income that may not have been declared.

Under the governorship of Bill Clinton, Jim McDougal was named a Gubernatorial aide to serve principally as liaison to the Economic Development, Commerce, and Highway and Transportation Departments; the first lady of Arkansas was hired to represent the S&L before state regulators; the president of the S&L was placed on the state S&L commission; an attorney who represented the S&L was named the state S&L regulator; the S&L received rent from state agencies; Whitewater had roads constructed using a state agency program and state funds; and the S&L was allowed to operate, despite being insolvent for an extended period, providing millions in loans and investment dollars to insiders and the Arkansas political establishment.

Under the governorship of Bill Clinton, the S&L was allowed to grow 25-fold until federal regulators forced its closing, at which time taxpayers picked up the tab for losses that amounted to approximately 50 percent of the institution's deposit base.

Under the Governorship of Bill Clinton, the total number of state chartered savings associations declined dramatically. Over the period December 1979 to December 1992, the number of stock state chartered thrifts in Arkansas declined from thirty-three, with assets of $961,002,000 to three, with assets of $146,072,000. Viewed another way, the amount of assets available to support home mortgage lending for the people of Arkansas declined.

The story of Whitewater is thus part and parcel the story of the greatest domestic policy mistake of the century -- the quarter trillion dollar S&L debacle. It is the story of a company which in one sense was a simple real estate development venture, but in another was a vehicle used to spirit federally insured deposits from an S&L and compromise a significant political figure.

In the largest series of bank robberies in history, which precipitated an industry bailout larger than the taxpayers provided Lockheed, Chrysler and New York City times a factor of ten, it is fair to ask: "What happened? Who is responsible?"

An answer to these inquiries requires an understanding that those accountable are not only a few negligent and corrupt S&L owners, but attorneys, accountants, state and federal legislators, regulators and assorted public officials. As wide-ranging as the responsibility is, however, it is a mistake to be so glassy-eyed as not to seek lessons for the future through a demand for individual accountability for breaches of law and ethics in the past.

Macro-economics aside, public responsibility for the S&L debacle is of a tripod nature, involving: 1) the conflict-ridden role of Congress in passing loose laws; 2) the ideological mistake of the Reagan Administration in urging deregulation in an industry which requires responsible standards; and 3) the culpability of a small number of state governments, such as in California, Texas, Louisiana and Arkansas, which failed to rein in high flying state-chartered, state regulated institutions, which because of the federal nature of deposit insurance, precipitated a massive transfer of wealth from states with responsible governments to those without.

In Arkansas it is impressive how the federal government was obligated to close more than 80 percent of state-chartered S&Ls in the 1980s and how large taxpayer losses were in relation to the state's S&L deposit base. The failure of the Clinton Administration in Little Rock to fulfill its responsibility to police state financial institutions had the effect of increasing tax burdens on citizens of Arkansas as well as other states.

While taxpayers at the national level were forced to pick up the tab for the mistakes of politicians in whose elections they could not vote, citizens in states like Arkansas were doubly shortchanged. Not only did they have to share in eventual bail out costs, but when their home based financial institutions frittered away the hard earned deposit savings of their state to insiders, fewer resources were made available to potential home owners and minority entrepreneurs.

What the Keating-5 scandal was all about was the attempt of an S&L owner to compromise through political contributions significant political players, in this case five senators, to influence regulators to keep an insolvent, corruptly-run, institution from being closed. What makes Governor Clinton's involvement with a company which helped breach the vaults of an Arkansas S&L philosophically at least equal to, but in reality more troubling than the Keating model is that not only did the institution's management organize conflict-ridden fund raising endeavors for the key politician in the state, but through Whitewater it put the Governor in a compromising personal finance position as well.

What is extraordinary is the hypocrisy of the circumstance. The following 1991 announcement statement of Governor Clinton speaks for itself:

> "For twelve years of this Reagan-Bush era, the Republicans have let S&L crooks and self-serving CEO's try to build an economy out of paper and perks instead of people and products. They stack the deck in favor of their friends at the top and tell everybody else to wait for whatever trickles down."

Despite the rhetoric it is remarkable how time after time in the 1980s, alleged defenders of the little guy in American politics found themselves advancing the interests of a small number of owners of financial institutions which were run as private piggy banks for insiders. The intertwining of greed and ambition turned democratic values upside down.

In our kind of democracy ends simply don't justify means. Just as a conservative, who may despise government, has no ethical right not to pay taxes, a liberal has no ethical basis to put the public's money in his own or his campaign's pocket just because he may have the arrogance to believe he is advancing a political creed that is in the public's interest.

Why does all this matter?

Here, it would perhaps be appropriate to paraphrase the great Illinois Senator, Ev Dirksen: a few thousand here and a few thousand there and pretty soon it adds up to a real scandal. Put another way, an ethical lapse here and an ethical lapse there and pretty soon it adds up to a character deficit.

I have never known anyone in public life better able to put embarrassing episodes behind him than Bill Clinton. Accordingly, I couldn't have been more surprised by the discombobulation of the Administration at the minority's restrained request last November for hearings and full disclosure.

As in most serious public scandals, cover-ups can prove as troubling as acts at their source.

Much press attention has centered in recent weeks on the revelations of improper contact between employees of independent federal agencies and the White House. The question of whether a "heads up" was appropriate is of significance. More so, is whether the line between a "heads up" and "cover-up" was crossed.

By background, for several years a group of criminal investigators for the RTC in Kansas City reviewed the failure of Madison Guaranty Savings and Loan in Little Rock and came to the conclusion criminal referrals were appropriate. In the last week of September 1993, they sent copies of their referrals to Washington. Within a few days of receipt of the referrals from the Kansas City office, RTC Washington officials visited the White House. Within a few weeks, in an unprecedented change of procedure, Washington demanded to review all Madison referrals. Within a few months, a senior Kansas City criminal investigator was removed from the case. Within a few more months, officials from RTC Washington visited Kansas City to pass on the determined message that senior RTC officials in Washington wanted it understood that they wished to claim Whitewater was not responsible for any losses at Madison.

Courageously, Kansas City investigators refused to allow Washington RTC objections to change the content of the referrals they sent in the second week of October 1993 to the Justice Department.

Courageously, Kansas City investigators refused to back the Washington position that Madison's losses were unrelated to Whitewater and pointed out to their superiors that in one intensely reviewed six month period alone approximately $70,000 was transferred from Madison and Madison affiliated companies to Whitewater.

Courageously, Kansas City investigators have sought whistleblower protection rather than comply with the Washington RTC gag order that no one from Kansas City could speak with Special Counsel Fiske without clearance through and accompaniment of Washington RTC officials.

The briefing of the White House by high ranking Department of Treasury and RTC employees must be understood in the context of the development and transmittal to the Justice Department of these referrals and in the context of the possibility Kansas City was in the process of developing further referrals.

There are many elements of the Whitewater affair that are a bit esoteric. But the revelations that U. S. government officials briefed key White House aides on potential legal actions which independent regulatory agencies might be obligated to take implicating but not charging the President and First Lady subvert one of the fundamental premises of American democracy -- that this is a country of laws and not men.

In America no individual, whatever his or her rank, is privileged in the eyes of the law. No public official has the right to influence possible legal actions against him or herself. For this reason agencies of the government as well as the White House have precise rules that govern their employees.

The following standards (31 CFR §0.735-30) apply to the Department of Treasury:

> "An employee should avoid any action ... which might result in, or create the appearance of ...
> (2) Giving preferential treatment to any person; ...
> (4) Losing complete independence or impartiality;
> (5) Making a Government decision outside official channels; or
> (6) Affecting adversely the confidence of the public in the integrity of the Government."

Similarly, the following standards contained in 12 CFR § 1605.7 apply to RTC employees:

> "No employees shall engage in any action, which might result in, or create the appearance of ...
>
> (b) giving preferential treatment to any person; ...
> (d) losing complete independence or impartiality;
> (e) making an RTC decision outside official channels; or,
> (f) adversely affecting the public's confidence in the integrity of the RTC."

Likewise, the following standards apply to the White House (3 CFR §100.735-4):

> "In all circumstances employees shall conduct themselves so as to exemplify the highest standards of integrity. An employee shall avoid any action, whether or not specifically prohibited by this subpart, which might result in, or create the appearance of:
>
> (1) Using public office for private gain;
> (2) Giving preferential treatment to any person; ...
> (4) Losing complete independence or impartiality;
> (5) Making a Government decision outside official

channels; or

(6) Affecting adversely the confidence of the public in the integrity of the Government."

Perhaps laws have not been broken, but seldom have the public and private ethics of professionals in the White House and Executive Departments and branch agencies been so thoroughly devalued.

The point of all this is that there is a disjunction in this Administration between public policy and private ethics. Americans abhor privilege; hypocrisy gnaws at the American soul; it leaves a dispiriting residue of resentment.

What is also extraordinary is the absence of simple truth.

Administration Claim: Whitewater caused no losses to Madison.

Fact: As reflected in the minority-developed charts and evidenced by supporting documentation, Madison and affiliated companies transferred significant resources to Whitewater. In addition to being a modest sized real estate company, with a cash flow derived from land sales, Whitewater appears to be one of a dozen so companies with direct or indirect access to Madison and its taxpayer guaranteed deposits.

Administration claim: The Clintons lost money in Whitewater.

Fact: To have lost money in Whitewater implies that the Clintons invested sums which were unrecovered. Their Whitewater partner, James McDougal, claims at most the Clintons over the years put in $13,500 in Whitewater. The Minority has provided evidence that one land transaction alone returned more than this amount to the Clintons and published reports indicate tax deductions of some value were taken. The Lyons report, as well as a review of land sales, indicates substantial sums were taken out of Whitewater over the years. It is not clear how disbursements were arranged. What is clear is that infusions of capital from land sales, from Madison affiliated entities and possibly from others appear to have covered loans the company and the Clintons took out. The company may have had a negative value when the Clintons sold their half interest in 1992, but that neither means the Clintons themselves lost money, nor that questions ought not be asked about how direct or

contingent liabilities may have been disposed of as late as 1992.

Administration claim: The President and his staff would fully cooperate with Congress.

Fact: The Executive branch is actively working to prevent full disclosure of documents and committee access to witnesses.

Administration claim: It has done nothing wrong in relation to the RTC investigation into the failure of Madison and is fully cooperating with Special Counsel Fiske's probe.

Fact: Officials of an independent regulatory agency (the RTC) immediately notified the White House of the probe of Madison by its Kansas City office and attempted to put in place procedural techniques to undercut the traditional independence of its regional offices.

Fact: In January, 1994 RTC Washington met with Kansas City staff. After the meeting the Kansas City office filed a formal complaint with Washington RTC.

Fact: On February 2, 1994, the day Roger Altman briefed the White House on Madison Guaranty, RTC Senior Attorney, April Breslaw visited the Kansas City office and said that Washington would like to say that Whitewater caused no losses to Madison. Kansas City employees protested that this was not the case.

Fact: On September 29, 1993, before the new criminal referrals were sent to the Justice Department, Treasury General Counsel Jean Hanson briefed White House Counsel on them. Nine days after the meeting, the referrals were sent to the Justice Department. On October 14, Jean Hanson with Secretary Bentsen's Press Secretary and Chief of Staff met with Presidential Advisors ostensibly to discuss press inquiries related to Madison Guaranty.

Fact: On February 2, right after the appointment of Special Counsel Robert Fiske, Roger Altman gave the White House a "heads up" briefing on Madison. At the Senate Oversight Board hearing, Roger Altman revealed his February 2 meeting, but no others. Several days later, the September and October White House briefings were revealed. On March 9, the Washington Post reported that there were numerous other contacts between the Treasury and the White

House on Madison. After subpoenas are issued it is revealed that there are over 3,500 pages of documentation surrounding these contacts which the White House terms as inconsequential.

Fact: After the appointment of Special Counsel Fiske, Washington RTC officials imposed censorship guidelines on Kansas City RTC employees. No discussion with Fiske could be made without going through Washington. No meetings between Kansas City office and Fiske could take place without accompaniment of Washington officials. No materials could be forwarded without going through Washington. All information concerning attorney-client privilege was to be redacted, with Washington RTC determining the scope.

Administration Claim: No fundraising improprieties occurred.

Fact: On April 4, 1985, Jim McDougal hosted a fundraiser for Governor Clinton. The Clinton's repeatedly asked McDougal to host the fundraiser to pay off the $50,000 personal loan that Clinton had taken out in the final weeks of his 1984 campaign. The question at issue is whether some of the money appears to have been diverted from Madison Guaranty, which would then, with the failure of Madison, imply deferred federal financing of a gubernatorial election. For example, one cashier's check for $3,000 was made in the name of Charles Peacook III, then a 24-year-old college student who disclaims any knowledge of having made a contribution. Mr. Peacock's father was a major Madison borrower and served at one time on Madison's board. Other checks that the RTC is reviewing include a $3,000 check from the late Dean Landrum, an employee of Charles Peacock, and one from Susan McDougal. In the former Governor's defense, candidates are not always in a position to verify their campaign contributions.

Mr. Speaker, the President's former partner, Jim McDougal in a number of occasions has contested the assertion that no resources were taken from Madison Guaranty and its related entities and given to Whitewater. In an AP story on February 4, 1994 and on the David Brinkley Show on March 13, 1994 he specifically raised concerns that Madison Marketing was not owned by Madison Guaranty, but was instead a sole proprietorship owned by his former wife. He has cited

documents filed with the Arkansas Secretary of State's office to buttress his claim.

Mr. McDougal apparently believes there are subtleties about the nature of Madison Marketing that need clarification. Mr. McDougal gives great credence to the circumstance that at some point Madison Marketing may have been operating as an intended proprietorship of his wife, but, whether this is true, this appears to be a distinction without a difference, form over substance. The overwhelming perspective as contained in the 1986 Federal Home Loan Bank Board Report of Examination is that all Madison Marketing resources were derived from Madison Guaranty or its subsidiaries. Any money transferred to Whitewater from Madison Marketing would thus have had as its source the S&L. The 1986 FHLBB exam, upon which the earlier staff memo on this subject was based, states:

> "A. Objectionable Conflicts of Interest
>
> Conflicts of interest involving James McDougal, Susan McDougal, and William Henley have been detrimental to the safety and soundness of the Institution. These individuals are in control of the Institution (Madison Guaranty) through their stock ownership. James McDougal owns 63.5% of the outstanding Madison shares. His wife, Susan McDougal, owns 12.6%, and her brother, William Henley owns 8.5%. In addition to his ownership control, Mr. McDougal, as President of the Institution's subsidiary (Madison Financial), has complete control of the land development projects discussed in comment
>
> B. This control enabled Mr. McDougal to structure the development and financing of the projects so that substantial cash payments could be diverted to himself, Susan McDougal, William Henley and others. These payments have directly benefited these individuals, but Madison Guaranty has received little or nothing in return. Though they have been structured to avoid specific Insurance Regulations, these payments are contrary to the general policy of the FHLBB concerning conflicts of interest as stated in Insurance Regulation 571.9 and FHLBB Memorandum R-19a.
>
> Many of these payments have been funneled through business entities which are owned or controlled by the McDougals, employees, relatives of employees, or close friends of the McDougals and Henley. . . .
>
> 2. Madison Marketing
>
> Madison Marketing is paid for doing all the general advertising for Madison Guaranty and most of the advertising for Madison Financial's land development projects. All of Madison Marketing's business is derived from Madison Guaranty or its subsidiaries. Since 1983 these payments total $1,532,000. . .

> Given the evidence of Madison Marketing's invoices, it is questionable how much of these advertising services are actually performed by the firm. The actual work of advertising, such as the design and production of commercials and providing air time or newspaper space, appears to be performed by others. Madison Marketing apparently just pays the bills of other providers and adds a 15% fee of its own. Examiners estimated this fee to be approximately $200,000 since 1983. It would appear that Madison Guaranty could have an employee perform similar work for much less money.
>
> Mr. Latham stated that Madison Marketing made no payments to any stockholders. This statement is false. As a part of a test for such payments, the examiners discovered two remittances from Madison Marketing to Susan McDougal which total $50,000. This was a test, and there may be additional payments."

Mr. McDougal apparently believes Madison Marketing should be understood simply as a sole proprietorship of his wife with no ties to the S&L. This view is in discordance with that of the United States Government, as indicated by the FHLBB report cited above; it is also in discordance with a contemporaneous view of the legal situation as defined and described by Mr. McDougal in a July 1, 1986 memorandum from him to Madison Guaranty's President, Mr. John Latham. In this memorandum, which is a copy of an original Madison document in the possession of the RTC and the minority of the House Banking Committee, Mr. McDougal asserts:

> In late January, 1985, Mrs. McDougal permitted Madison Marketing to become a subsidiary of Madison Financial Corporation.

In addition, Mr. Jeff Gerth of The New York Times has reported on March 8, 1992, an earlier instance in which Madison Marketing transferred resources to Whitewater. Mr. Gerth reported:

> Whitewater's check ledger shows that Whitewater's account at Madison was overdrawn in 1984, when the corporation was making payments on the Clinton's loan. Money was deposited to make up the shortage from Madison Marketing, an affiliate of the savings and loan that derived its revenues from the institution, records also show.

In addition, David Hale and his attorney Randy Coleman have asserted in recent days that it was proceeds of an $825,000 Madison loan that was used to leverage SBA funds and to make the $300,000 loan to Susan McDougal, of which $110,000 was deposited to Whitewater.

This evidentiary material coupled with the April 17, 1985 Minutes of Madison Financial's board authorizing a transfer of $30,000 from

Madison Financial to Whitewater, the memo of L. Jean Lewis of the Kansas City RTC office showing over a six month period reviewed that approximately $70,000 was transferred from Madison or affiliated entities to Whitewater, plus other more confidential RTC material in our possession indicates there is every credible reason to believe that Madison Guaranty through affiliated entities did transfer money to Whitewater.

Furthermore, records filed with the Arkansas Secretary of State's office show that Mr. McDougal, as president of Madison Financial Corporation (a subsidiary of Madison Guaranty) on July 26, 1986 filed an application for registration of fictitious name. The application was for Madison Financial to do business as "Madison Marketing." This document does not represent incorporation papers. This application appears to be in response to the 1986 Federal Home Loan Bank exam which noted that with regard to Madison Marketing and Madison Real Estate, Madison Financial had "not registered as a 'd/b/a' in the County records."

The effect of this statement with its supporting documentation is to evidence that:

1) Whitewater may have begun as a legitimate real estate venture but it came to be used to skim, directly or indirectly, federally insured deposits from an S&L and a Small Business Investment Corporation. When each failed, the U.S. taxpayer became obligated to pick up the tab;
2) The family of the former Governor of Arkansas received value from Whitewater in excess of resources invested;
3) Taxpayer guaranteed funds were in all likelihood used to benefit the campaign of a former governor;
4) The independence of the U.S. Government's regulatory system has been flagrantly violated in an effort to protect a single American citizen;
5) Congress and the Executive are employing closed society techniques to resist full disclosure of an embarrassing circumstance, with unfortunate precedent setting ramifications.

Last month a BBC reporter asked me if we Americans weren't making too much of this scandal. He raised a fair question. Compared with petty potentates around the world, who routinely walk off with millions and in some cases billions, conflicts of interest in American politics are of petty variety. In this case, however, we have a situation where a multi-thousand dollar conflict of interest led to a multi-million dollar hit on the taxpayer. That is the meaning to the failure of Madison Guaranty. That is also the meaning of the Small Business Investment Corporation called Capitol.

It is simply not appropriate to shrug it off and say that this is the way things are done in small states. They aren't in Nebraska, South Dakota, or Iowa. It is simply not appropriate to say it isn't a federal issue. It is. The U.S. taxpayer has lost millions; home

owners in Arkansas have lost institutions that were established to serve their needs; minorities throughout the country cannot lightly shrug off yet another instance in which a program designed to give them a crack at the American dream was redirected to serve the investment ego a state political establishment.

It is suggested by the Majority that we have better things to do around here. There again is some truth to this. The minority also wants to get on with the business of health care, welfare reform, crime legislation. Indeed, we pledge to be constructive and are not blocking any Congressional consideration of these issues. But, in a larger sense, it should be understood that these "we have better things to do" laments suggest that ethics, governmental integrity, and the possible misuse of the public's money should be secondary considerations -- something to worry about only when we have time. In a democratic system, built and maintained on the confidence of the people, placing such considerations last on the list of priorities is a highly dubious game. Nothing works over the long haul if the public loses confidence in its governmental institutions and the people who operate those institutions. The task of keeping the people's confidence may not be pretty or pleasant, but it is a first priority in our system -- not a last priority as all too many are suggesting today.

Whitewater is less about the issues of the day than it is the ethics of our time. It is a central issue not because it is big, but precisely because it is small.

The way we in America keep our scandals from becoming too big is by holding people accountable when the amounts of money at issue are relatively small. It is the principles at issue, not the dollar amounts that matter.

In conclusion, let me stress that the most difficult issue to deal with is the question of proportionality. When the Minority made its restrained request for hearings last November I suggested that while there was fire with the smoke, Whitewater appeared to be more a camp than forest fire. I now believe the fire has spread to the grass and is heading to the trees but that it is still not too late to put it out with full disclosure and full accountability. In this regard, I suggested in a December Washington Post editorial that when breaches of law or public ethics occur, options often exist as to whether civil or criminal remedies are appropriate. I presumptuously concluded then and maintain now that there is no reason not to proceed with civil accountability in a civil way. The last thing this country needs is a year long trial or travail for the President of the United States. It would divide the country and be unfair to the public as well as the President.

Accordingly, I have pledged to the President's Counsel as well as to the Special Counsel that I will do my best to put the issue behind once disclosure is provided. Accountability is in order; a

Constitutional crisis is not. The Presidency should neither be jeopardized nor debilitated. Rather than high crimes and misdemeanors, the issue today relates to high improprieties and breaches of the public trust.

-- 30 --

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

February 4, 1994

MEMORANDUM TO THE FILE

FROM: Ellen B. Kulka
General Counsel

SUBJECT: Madison S&L

These are the talking points for anyone authorized to discuss the Madison situation. Additional information should not be supplied unless it has been properly approved. While this is standard procedure, anyone authorized to speak should be aware that the discussions of any additional information could have an impact on the agency's legal position in any matters arising out of Madison.

Attachment

cc: Altman
Hanson
Ryan
Dudine
Katsanos
Knight
Hindes

801 17th Street, N.W. Washington, D.C. 20434

MADISON GUARANTY SAVINGS ASSOCIATION

TALKING POINTS

1. On February 28, 1989 Madison Guaranty was placed into conservatorship with the FDIC as managing agent for the FSLIC.

2. The FDIC was responsible for managing S&L's that failed in 1989 until this function was transferred to the RTC upon its creation on August 9, 1989.

3. Congress decided that the statute of limitations in FIRREA did not provide enough time to address all potential claims.

4. With the enactment of the RTC Completion Act on December 17, 1993, the statute of limitations within which suit could be brought for certain kinds of claims was extended for an additional two-year period from the date when it had already expired.

5. The claims to which the reopened statute of limitations apply are for civil fraud and intentional misconduct.

6. Upon the enactment of the Completion Act, the RTC began reviewing institutions including Madison in situations where the reopened statute of limitations would expire shortly.

7. In the case of Madison, if such claims do exist the RTC will vigorously pursue all appropriate remedies, with full awareness of the limited period available.

8. The RTC's jurisdiction is solely as to civil claims. Any potential criminal matters are within the jurisdiction of the Justice Department.

---

a. On January 21, the RTC received a letter dated January 10 addressed to Interim CEO Altman (signed by Senators Dole, D'Amato, Pressler and Representatives Leach, Fish Michel, Clinger and Myers) that asked for response to an attached letter dated January 11 regarding tolling agreements.

b. On January 25, Interim CEO Altman received a letter from Senator D'Amato asking about what actions the RTC has taken "to ensure that the applicable statute will not expire."

c. The RTC responded on February 1. The response stated that review of potential civil claims is underway and that, if such claims do exist, RTC will vigorously pursue all appropriate remedies using standard procedures.

February 4, 1994

cc Mr. Ryan
Ms. Kulka
Mr. Hinder

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

DRAFT
From Peter Knig
2/9/94

– response to the 41 Senators who signed the letter to Dep Secrety Altman

The Honorable Lauch Faircloth
United States Senate
Washington, D.C. 20510

Dear Senator Faircloth,

This is in response to your letter of February 8, 1994 concerning the RTC's efforts relating to possible civil litigation resulting from the failure of Madison Guaranty.

Your letter makes the statement that, "The RTC's inaction on the civil side is ....disturbing." I want to reiterate what I said in my letter of February 1, 1994, which is that the RTC "is conducting a thorough review of the failure of Madison." While your letter characterizes this as a "general response", I must point out that it is inappropriate for me to address at this time any specifics relating to this matter.

It is standard operating procedure not to discuss any matter relating to any institution that is under active consideration with respect to possible litigation. I am sure that you understand that to do otherwise could jeopardize the RTC's efforts to make civil recoveries on behalf of the American taxpayers.

While it would be inappropriate for me to provide any information relating to the status of our investigation or internal deliberations at this point, I can assure you that the RTC is prepared to make a full public accounting of the handling of civil matters under the purview of the RTC when it is appropriate to do so.

Sincerely,

Roger C. Altman
Interim CEO

801 17th Street, N.W. Washington, D.C. 20434

2762

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PAUL S. SARBANES, MARYLAND
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HOWARD A. MENELL, REPUBLICAN STAFF DIRECTOR

United States Senate

COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS
WASHINGTON, DC 20510-6075

February 8, 1994

Mr. Roger Altman
President Interim and
Chief Executive Officer
Resolution Trust Corporation
801 17th Street N.W.,
Washington, D.C. 20434

Dear Mr. Altman:

The RTC has acknowledged that the statute of limitations for any civil action arising from the failure of Madison Guaranty will run out on February 28. After February 28, the RTC will not be able to recover any more of the $47 million the taxpayers were forced to pay to close Madison.

The RTC took over Madison in 1989. Presumably, the RTC has thorough knowledge of the institution, the reasons for its failures and the individuals and activities that contributed to its demise. The RTC made a criminal referral to the Justice Department perhaps as early as October, 1992 based on its extensive information and investigation.

The RTC's inaction on the civil side is therefore even more disturbing. With the civil statute of limitations about to run out, the RTC must take action immediately. Unless the RTC takes actions, the rights of the American people to justice and financial recovery will be forfeited to a legal technicality.

Your February 1 letter offered assurances "that the Resolution Trust Corporation is conducting a thorough review of the potential civil claims it possesses as a result of the failure of Madison." Moreover, you stated that the RTC "will vigorously pursue all appropriate remedies using standard procedures in such cases, which could include seeking agreements to toll the statute of limitations."

Beyond this general response, we are seeking specific answers to the following questions:

- What is the RTC doing to obtain voluntary agreements to extend the statute of limitations from all potential defendants in the Madison/Whitewater matter beyond February 28, 1994?

- In the event the RTC cannot obtain tolling agreements, will the RTC file appropriate civil claims against all individuals whom the RTC has reasonable cause to believe may be liable to the United States prior to February 28, thereby tolling the statute and allowing time for refinements to the original complaint?

- Will the RTC provide us with a complete report on the status and scope of its "thorough review" as soon as possible?

Time is of the essence. The RTC has had years to investigate Madison Guaranty; it should have complete knowledge of the situation and adequate legal foundation for any civil suits. It has only weeks left to act and it should do so without further delay.

We must respectfully request that you respond fully and promptly to this letter.

Sincerely,

Alfonse D'Amato

Frank H. Murkowski

Don Nickles

Trent Lott

Strom Thurmond

Hank Brown

Connie Mack

Richard B. Lugar

Conrad Burns

Larry Craig

Jesse Helms

Kit Bond

Nancy Landon Kassebaum

Chuck Grassley

Bob Smith

Larry Pressler

Jim Jeffords

Ted Stevens

Malcolm Wallop

John Warner

Bob Packwood

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

February 1, 1994

The Honorable Robert J. Dole
Minority Leader
United States Senate
Washington, D.C. 20510

Dear Mr. Leader:

On January 11, 1994 you wrote to Attorney General Reno and me concerning the statute of limitations relating to Madison Guaranty Savings and Loan of McCrory, Arkansas ("Madison"). I want to assure you that the Resolution Trust Corporation is conducting a thorough review of the potential civil claims it possesses as a result of the failure of Madison. The RTC is, of course, mindful of the impending February 28 anniversary date of the federal takeover of Madison.

If such claims do exist, the RTC will vigorously pursue all appropriate remedies using standard procedures in such cases, which could include seeking agreements to toll the statute of limitations. As you noted, the barriers presented by the expiration of the statute of limitations in many cases have been ameliorated by the extension of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA) statutes in the RTC Completion Act (Act). The Act has afforded the RTC an opportunity to investigate further any civil claims which may be asserted against individuals or entities associated with Madison Guaranty for fraud, intentional misconduct resulting in unjust enrichment, or intentional misconduct resulting in substantial loss to the institution. As you know , the RTC's jurisdiction is solely as to civil claims. Any potential criminal matters are within the jurisdiction of the Justice Department.

Sincerely,

Roger C. Altman
Interim CEO

801 17th Street, N.W. Washington, D.C. 20434

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POSSIBLE QUESTIONS FOR THE OVERSIGHT BOARD HEARING

I have reviewed a list of hypothetical questions that might be asked of witnesses a forthcoming House Banking hearing on the RTC Oversight Board. There are 11 which relate to "Whitewater\Madison" and 3 others that pertain to PLS. I have suggested at least partial answers to those on which I have any knowledge or information. I have elected to provide more information than might necessarily be provided in an actual answer; because of the possible privileged and confidential nature of some of the matters set forth, they might be provided, if at all, only in an executive session.

Whitewater\Madison (For ease of response, I have numbered these questions 1 - 11 even though they are unnumbered on the sheet supplied to me. I have not attempted to answer every question since I do not have information upon which to suggest an answer for some questions or subquestions. In these instances, I have responded "DNA".

1. DNA

2. The only knowledge I have in this regard is that John Bowman attended one meeting with Jack Ryan, Jim Dudine, Bill Collishaw, Jack Binkley, Jim Barker, and Peter Knight at which general Madison issues were discussed. I believe this was on January 12. After this meeting, Jim Barker, John and I went over to Treasury to meet with Jean Hanson on the Madison issues. The only other involvement by anyone from Treasury in Madison matters of which I am aware, was John's participation in another general meeting on January 19 or 20 in Ellen Kulka's office. At this meeting, privilege concerns were raised, and it is my recollection that we decided it would be preferable if we did not risk possible waiver by John's further involvement.

3. DNA

4. I am not aware of any "instructions" from or discussions with Justice Department officials with respect to the release of information to Congress regarding Madison. There were discussions and correspondence exchanged regarding the RTC's position in responding to FOIA requests. Essentially, the agreement was that criminal referrals would be withheld from disclosure under the "investigative materials" exception to FOIA, unless DOJ agreed otherwise. These discussions and correspondence were in early January, prior to the appointment of the Special Prosecutor. I am not aware of any further exchanges in this regard.

5. I have general knowledge of the OCOS investigation, but

someone else would be better situated to answer this question.

6. There have been several telephone conversations with Mr. Fiske and his staff and several letters have been exchanged. These contacts have dealt with issues pertaining to matters subject to Grand Jury subpoenas which the RTC needs to continue its investigation into possible civil claims. Mr. Fiske has also requested that RTC waive its attorney-client privilege with the Rose Law Firm as well. To my knowledge, none of these calls have involved Secretary Altman.

7. The RTC has taken the position that requests for information from individual members of Congress have the same standing as FOIA requests and are subject to the same exceptions. There is no credible legal theory or authority to the effect that the law is otherwise. Providing privileged information to an individual member of Congress would likely waive all applicable privileges. I am not aware of any involvement by Treasury officials or the Interim CEO in these issues.

8. Providing this information at a time when both civil and criminal investigations were ongoing would pose a substantial risk that these investigations could be compromised.

9. [It is my understanding that RTC and FDIC have historically refused to respond to inquiries, at least in open hearings, on matters pertaining to criminal referrals. This refusal has extended to include an unwillingness to confirm or deny that referrals were actually made, although that may be academic in this case. The question remains, however, whether there should be a review of this policy insofar as it involves providing the actual referrals.] One referral was submitted in September, 1992 and 9 additional referrals were submitted in September, 1994.

10. The original statute of limitations for Madison civil claims expired on the three year anniversary of its failure, February 28, 1992. There was a civil claim pursued first by FDIC and then RTC against Madison's former auditors; this case was originally filed by Madison prior to its failure. This case was successfully resolved. [Numerous other civil claims involving matters other than professional liability claims were also pursued by the RTC, e.g., the Seth Ward litigation, but these are not matters upon which I have information.] There were no meritorious and cost-effective claims identified with respect to Madison's officers, directors, attorneys or other professionals who performed services for the thrift. A review of possible criminal referrals continued beyond the February 28, 1992 date since the limitations period for criminal charges had not, and at this time still has not, expired.

11. The decision to close all Madison professional liability claims, except for the audit failure claims then pending, was made in October, 1990. At that time, there was no separate RTC Legal Division; all such matters were handled by attorneys who were

assigned to RTC matters from the FDIC Legal Division. When the RTC Legal Division was created as a independent entity in 1991, there was no general program to go back and revisit "close-out" decisions previously made.

Statute of Limitations Extension

The RTC is embarking on a program to review the disposition of claims and close out decisions at every institution affected by the Completion Act statute of limitations extender, as further amended on February 11, 1992. [A copy of the Protocol for this review could be provided if desired.]

DRAFT 2/22/94

WHITEWATER/MADISON: RECUSAL

Question:

Secretary Altman, why have you failed to recuse yourself thus far from the RTC's work relating to Madison Guaranty? How many discussions have you had concerning Madison and related matters?

Answer:

WHITEWATER/MADISON: TREASURY INVOLVEMENT

Question:

Have any other officials of the Treasury Department been involved in any substantive discussions relating to the RTC's handling of Madison or related matters?

Answer:

-- I and a very limited number of my Treasury staff have been briefed generally by RTC staff on a variety of issues related to the RTC's review of the Madison matter. Topics include:

- -- RTC procedures related to document requests including the types of information that are releasable in the ordinary course to members of the public, members of the Congress acting in their individual capacity and as a Committee of the Congress;
- -- a general discussion of the causes of action that might be available to the RTC that fall within the extension of the statute of limitations contained in the RTC Completion Act;
- -- the normal criteria applied by the RTC in seeking an Authority to Sue, tolling agreements with potential defendants, etc.; and,
- -- the applicable statute of limitations and a chronology of the Madison matter beginning in 1989 with the seizure of the institution by the FDIC, the expiration of the FIRREA statute of limitations in 1992 and the revival of certain types of actions under the Completion Act and the further extension via the California Earthquake Relief Act;

-- During my service as the Interim CEO of the RTC I have had members of my Treasury staff sit in on a variety of briefings and discussions related to RTC matters. For instance, since I was appointed Interim CEO of the RTC I and members of my Treasury staff have had a standing Tuesday luncheon involving senior members of RTC including the Deputy CEO, the General Counsel and the Senior Vice President for Minority and Women's Business. Topics discussed during the course of these regular meetings include the implementation of the recently approved Completion Act.

-- No discussions of the actual decisions to be made by the RTC as to whether any claims exist and should be pursued against specific persons in connection with Madison have been held by me or other Treasury staff.

WHITEWATER/MADISON: CONVERSATIONS WITH THE WHITE HOUSE

Question:

Secretary Altman, have you or any other Treasury officials held any conversations with the White House concerning this matter?

Answer:

WHITEWATER/MADISON: JUSTICE DEPARTMENT

Question:

Has the Justice Department told the RTC what it can and cannot tell the Congress in matters relating to Madison Guaranty?

Answer:

-- Consistent with established practice, RTC staff has had discussions with the Justice Department prior to the appointment of the Special Counsel as to the release of information which may hamper or affect the investigation of matters in which the RTC has information or an interest.

-- RTC staff's discussions with the Justice Department and Special Counsel Fiske have involved issues such as coordination of the respective agency's investigations so as to not unduly delay or prejudice the possible prosecution of various claims or actions.

-- [Insert here any possible talking point related to the Klinger letter and response from the Treasury -- talk with Dennis Foreman first thing Tuesday!!]

WHITEWATER/MADISON: ROSE LAW FIRM

Question:

Secretary Altman, has the RTC investigated the Rose Law firm and whether or not it correctly represented possible conflicts when soliciting business with the RTC? Have you recused yourself from this matter?

Answer:

-- The FDIC, as exclusive agent for the FSLIC, was the original conservator of Madison and as such, retained the Rose law firm. As you know the FDIC has investigated the circumstances arising out of that relationship and have released their report. Perhaps Acting Chairman Hove might like to briefly expand upon the report.

-- RTC staff has read the report and has advised me that it has no information which would lead the RTC to a different conclusion.

WHITEWATER/MADISON: INDEPENDENT COUNSEL

Question:

Secretary Altman, has the RTC been in contact with the Special Counsel Robert Fiske? Have you participated in these conversations?

Answer:

-- I understand that there have been several telephone conversations with Mr. Fiske and his staff and Deputy CEO Jack Ryan as well as members of the RTC legal staff regarding various procedural matters.

-- I have not participated in any of those discussions.

SECRETARY BENTSEN Q & A: Q 1

Question:

What involvement has the Oversight Board had with respect to the RTC's investigation into Madison Guaranty?

Answer:

The Oversight Board is not involved in matters involving specific RTC investigations, and it has had no involvement in this matter.

To: John E. Ryan@CEO@RTCDC,Ellen B. Kulka@Legal-sc@RTCDC
James M. Barker@Legal-sc@RTCDC
Peter E. Knight@OGR@RTCDC,Jack M. Buckley@OES@RTCDC
April A. Breslaw@Legal-pls@RTCDC
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Steve S. Primrose@OGR@RTCDC
Wilma H. Lekan@Legal-sc@RTCDC
Sharon D. Hume@Legal-sc@RTCDC
Margaret L. Lunsford@Legal-sc@RTCDC
Mary D. Hopkins@Legal-lit@RTCDC
Meg J. Kruse@CEO@RTCDC
Cc:
Bcc:
From: Thomas L. Hindes@Legal-pls@RTCDC
Subject:
Date: Tuesday, March 8, 1994 11:00:16 EST
Attach:
Certify: Y
Forwarded by:

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R. Altman

Questions

1) When did Madison Guaranty collapse?

2) Tell us about the federal oversight of Madison before the collapse.

3) When did the RTC first turn its attention to Madison?

date — Closing Memo

4) Who in the RTC was involved at the beginning?

5) Has … adison and …

6) Wh… … ptea offi…

7) Wh… Cl…

8) Wh…

X 9) Wh… … c of lim…

X 10) Di…

11) Ha… … lone on Madison before the Feb. 28 deadline?

Completing investigation after RTC Completion Act

Igo

12) What were the internal RTC processes which led to the decision in October to refer this to the Justice Department?

13)

14) … l claim?

15)

16)

17)

18) … ; document

19) … ?

Terry — Tom, Jim, me & you are pulling answers together on this. Can you write something on 32 & 17 & 18 (if you've been working on document retrieval. Jim is looking at the criminal questions) I'm looking at the old background stuff & Tom is writing the "policy" answers. Obviously, some of the answers have to be deflected to the OTS & Treasury (9, 10, 20-23, 2, 26, 27, 34)

April

R. Altman

Questions

1) When did Madison Guaranty collapse?

2) Tell us about the federal oversight of Madison before the collapse.

3) When did the RTC first turn its attention to Madison?
[date = Closeout Memo]

4) Who in the RTC was involved at the beginning?

5) Has the RTC ever uncovered any ties between Madison and Whitewater, or Madison and the Clintons?

6) When did the Madison matter first come to the attention of the RTC's Washington office?

7) Why was the statute of limitations in this matter originally permitted to lapse?
Claims Closed / Based on Cost effectiveness ?/

8) Who made the decision to permit that?
Beatty + Dudine

X 9) Why did the Clinton Administration oppose a retroactive extension of the statute of limitations in the RTC Completion Act?

X 10) Did Madison Guaranty matters enter into that decision?

11) Had Congress not just extended these limitations, what would the RTC have done on Madison before the Feb. 28 deadline?
Completing investigation after RTC Completion Act

IGO 12) What were the internal RTC processes which led to the decision in October to refer this to the Justice Department?

13) Who was involved in that decision?
— RTC Investigations —

14) What is the RTC doing at this very moment to reach a decision on a civil claim?
Reviewing documents, checking assets bankruptcies

15) Who at the RTC is doing that work?
Inside Staff, Pillsbury

16) When will a decision be reached?
At completion of the investigation

17) Tell us about the documents which the RTC provided to Mr. Fiske.
[Terry / Pillsbury / Rose Firm Documents / anything else / K. City documents

18) What is the RTC doing to get those documents back?
RTC made copies of everything

19) How could the RTC make its decision without access to those documents?
Possibly could not

X 20) What discussion with RTC staff have you personally had on Madison?

X 21) What discussions on it have you had with Secretary Bentsen?

X 22) What has he said to you about the Madison investigation?

X 23) Have you issued any instructions to RTC staff on this investigation? What were they?

24) What is being done to safeguard the RTC documents on this case?
Locked Room in D.C.

25) Who made the decision to put Madison into conservatorship?
Bank Board

26) Why was McDougal permitted to loot the institution the way he did?
OTS / FSLIC

27) Wasn't that a dereliction of oversight? Who was responsible?

X 28) Do you think that the President and/or Mrs. Clinton have broken any laws in this matter?

29) Have they acted in an ethical fashion?

30) Aren't there, at the very least, appearances of impropriety on their part?
No

31) What should be done if it is ultimately determined that laws were broken?

Tony → 32) Are you aware of the connections between the Rose Law Firm and Madison and/or Whitewater? Recap. + Check w Tony

33) Has anyone at the RTC spoken to the President's attorney in this matter? Who has had that conversation? No

X 34) Why has the Treasury General Counsel been so active in this whole matter? She has no responsibilities at the RTC.

35) Will the Oversight Board play any role at all in RTC decisions on Madison?
No

36) If the RTC were to file a claim in court against the Clintons, how would that work? What would the RTC seek, etc.?

Firm's documents regarding the other legal services it provided to Madison Guaranty are to be produced to the RTC on a rolling basis.

The records initially available, i.e., the records of Madison Guaranty, have not disclosed any connections between the Rose Firm and Whitewater Development Corp. Any such connections will be investigated through the use of the RTC's standard investigative methods, including administrative subpoenas. The Rose Firm also assumed the prosecution of the inherited accountant liability lawsuit against Frost & Company after Madison Guaranty failed.

33) No.

34) deferred to Mr. Altman

35) No.

36) See response to item 5.

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

OFFICE OF THE GENERAL COUNSEL
DIVISION OF LEGAL SERVICES
801 17TH STREET, N.W., ROOM 1022
WASHINGTON, D.C. 20434

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TO: John Bowman

TELECOPIER NUMBER: (202) 622-1974

TELEPHONE NUMBER:

FROM: Jim Barker

REPLY TELECOPIER NUMBER: (202) 416-2403 or (202) 416-2517

REPLY TELEPHONE NUMBER: (202) 416-7032

DATE: 1/13/94 TIME: 3:45 p.m. EST

TOTAL PAGES IN MESSAGE, INCLUDING THIS COVER PAGE: 6

MESSAGE: Following are two items:

(1) Draft response to the request of Senator Dole and others that tolling agreements be obtained from President and Mrs. Clinton and others for potential claims arising out of the failure of Madison Guaranty S&L prepared by Tom Hindes. Tom cast the draft as a memorandum to me, but it easily could be reconfigured to another format. The first page and a half of Tom's memorandum frames the issues and gives a chronology of salient events; the final two paragraphs on the second page address the matter of further review of potential claims.

(2) Yet another electronic mail message regarding the OCOS independent investigation of the engagement of the Rose law firm to prosecute professional liability claims against Madison Guaranty's accounting firm. Note especially the comments made by Rick Womble.

INTEROFFICE MEMORANDUM **RTC LEGAL DIVISION** **PLS BRANCH**	**RESOLUTION TRUST CORPORATION** **801 17TH STREET, NW** **WASHINGTON, DC 20434-0001**

MEMORANDUM TO: James Barker
Acting General Counsel

FROM: Thomas L. Hindes
Assistant General Counsel

DATE: January 13, 1994

SUBJECT: Madison Tolling Agreement Request

To: James G. Thompson@EXECFSC@RTCKC
Russell F. Kaufman@Legal-Exec@RTCKC
L. Richard Iorio@INVEST-1@RTCKC

Cc: Thomas L. Hindes@Legal-pls@RTCDC
Julie F. Yanda@LEGAL-PLS@RTCKC
James R. Dudine@Oper-inv@RTCDC
Bcc:
From: April A. Breslaw@Legal-pls@RTCDC
Subject: Madison: Retention of Rose Law Firm
Date: Wednesday, January 12, 1994 10:59:22 EST
Attach:
Certify: Y
Forwarded by: Rick Womble@OCOS-INV@RTCDC

Comments by: Rick Womble@OCOS-INV@RTCDC
Forwarded to: April A. Breslaw@Legal-pls@RTCDC
James M. Barker@Legal-sc@RTCDC
Dennis M. Cavinaw@Assets-fa@RTCDC
Thomas L. Hindes@Legal-pls@RTCDC
Leonard O. Newmark@OCOS-INV@RTCDC
William A. Kmetz@OCOS-INV@RTCDC
Howard W. Cox@OCM-OCOS@RTCDC
Comments:

I have taken FDICs involvement into consideration and find that it doesn't meet the immediate needs of RTC re: the F&I aspects concerning potential conflicts issues involving the ROSE LAW FIRM. As I explained to Ms. Breslaw, out investigation is narrowly focussed. This matter directly impacts upon RTC and resolution will ultimately be determined by the Outside Counsels Conflict Comm, should the facts support such a referral. We have no other interest.

Comments by: Leonard O. Newmark@OCOS-INV@RTCDC
Forwarded to: Rick Womble@OCOS-INV@RTCDC
Comments:

Rick: FYI, Leonard

Comments by: April A. Breslaw@Legal-pls@RTCDC
Forwarded to: James M. Barker@Legal-sc@RTCDC
Dennis M. Cavinaw@Assets-fa@RTCDC
Leonard O. Newmark@OCOS-INV@RTCDC
Thomas L. Hindes@Legal-pls@RTCDC
Comments:

It's my understanding that OCOS is recieving information from Kansas Investigations which pertains to the decision to hire the Rose Law firm in 1989. Before OCOS begins an investigation of this matter, the FDIC's role should be taken into consideration. The attached email explains this point in more detail.

-------------------------- [Original Message] -------------------------

It's my understanding that Kansas Investigations has attempted to evaluate the decision to hire the Rose Law Firm to represent the government against Frost & Co., the former auditors of Madison Guaranty. It's my further understanding that this project was initiated in an effort to be prepared to respond to outside inquiries about this matter.

So that there is no misunderstanding or confusion, you should be aware of several things. First, there is no dispute about the fact that I was the staff attorney responsible for Madison in 1989. There is no dispute about the fact that I hired the Rose Firm to work on the Frost accounting malpractice case. As a routine part of managing that litigation, I evaluated the bills submitted by the Rose Firm for work performed on that case. As a routine part of their jobs, my supervisors evaluated and approved payment of these bills. There is no need to investigate these facts: they are true and undisputed.

However, it appears that there is confusion about other issues. Most importantly, it appears that some RTC personnel do not understand that the decision to hire the Rose Firm was NOT made by the RTC. Instead, it was made when I was employed by the FDIC Directors and Officers Liability Section.(At the time, neither the RTC nor the Professional Liability Section existed.) The FDIC has taken responsiblity for this decision. In practical terms, this means that the FDIC is responding to media, FOIA, and Congressional inquiries about this matter. Consequently, we have no reason to think that the RTC will be called upon to explain it.

Further, you should be aware that the FDIC is conducting its own investigation of this matter. Trial attorneys from their Special Litigation unit are in the process of both evaluating relevant documents and interviewing witnesses. By all indications, this project is being handled in a professsional manner. When they conclude, they expect to issue a public report. If the public is getting it, it should certainly be available to Kansas Legal and Investigations.

In light of all of this, I suggest that Investigations discontinue its inquiry into this matter.

Transmit Confirmation Report

No. : 001
Receiver : 96221974
Transmitter : RTC LEGAL
Date : Jan 12'94 17:15
Time : 01'49
Mode : Norm
Pages : 03
Result : OK

RTC
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Resolving The Crisis
Restoring The Confidence

MEMORANDUM TO: Peter Knight
Director
Office of Government Relations

FROM: Jim Barker
Associate General Counsel
Field Office Operations

DATE: July 12, 1994

SUBJECT: Madison Guaranty Savings & Loan
Senate Banking Committee Request for Documents

This is in response to your July 11 electronic mail message relative to the above-referenced request, a copy of which is attached for your convenience. I have searched my files and, to the best of my knowledge, the attached represent all documents in my possession that may be responsive to the Senate Banking Committee's request.

With respect to the attached Q & A document, which was prepared in anticipation of the hearing before the Senate Banking Committee last February, it is the only version of that document in my possession. As you know, there were several iterations of the Q & A document prepared, but it was revised on a rolling basis, and I retained only the most current draft.

Please let me know if can be of further assistance in this matter.

JMB:M2061.PEK

Attachment

801 17th Street, N.W. Washington, D.C. 20434

To: John E. Ryan@CEO@RTCDC,Ellen B. Kulka@Legal-sc@RTCDC
James M. Barker@Legal-FOO@RTCDC
Casey Carter@OGR@RTCDC,John C. Binkley@Legal-ra@RTCDC
April A. Breslaw@Legal-pls@RTCDC
Gregg H.S. Golden@Legal-lit@RTCDC
James J. Igo@Legal-pls@RTCDC
Terry S. Arbit@Legal-pls@RTCDC
Steve S. Primrose@OGR@RTCDC
Wilma H. Lekan@Legal-sc@RTCDC
Sharon D. Hume@Legal-sc@RTCDC
Margaret L. Lunsford@Legal-ra@RTCDC
Mary D. Hopkins@Legal-lit@RTCDC
Meg J. Kruse@CEO@RTCDC,James R. Dudine@INVEST@RTCDC
Mark Gabrellian@Legal-pls@RTCDC
Stephen J. Katsanos@Comm@RTCDC
Cc:
Bcc:
From: Peter E. Knight@OGR@RTCDC
Subject: Request for documents re: Madison
Date: Monday, July 11, 1994 10:13:00 EDT
Attach:
Certify: N
Forwarded by:

This Email is to address two separate requests for documents we have received from the House and the Senate relating to Madison:

1)
The Senate Banking Committee is making a supplemental request that we give them ALL copies of documents related in any manner to RTC-White House contacts related to Whitewater/Madison and any documents related to RTC-Treasury contacts with respect to White House contacts on the same subject.

We must get from you all relevant copies of documents covered by this request, even if we already have received multiple identical copies. This request falls within the scope of Senate Resolution 229.

Please forward ANY documents you have, including all copies of Q&As related to Madison to Casey Carter by COB on Wednesday July 13. Include your name so that we know where they came from.

2) A reminder to those of you who were also asked to produce certain documents in connection with contemplated hearings regarding Madison Guaranty and Whitewater Development. The Committee is seeking any documents in RTC possession that relate to ANY communications between RTC and the Department of Treasury with regard to Whitewater/Madison. Please note that this request is broader in scope than the Senate request.

The documents are due by COB tomorrow.

IF YOU HAVE NO RESPONSIVE DOCUMENTS PLEASE SEND CASEY AN E-MAIL TO THAT EFFECT.

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OFFICE OF THE GENERAL COUNSEL
DIVISION OF LEGAL SERVICES
801 17TH STREET, N.W., ROOM 1022
WASHINGTON, D.C. 20434

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TO: John Bowman

TELECOPIER NUMBER: (202) 622-1974

TELEPHONE NUMBER:

FROM: Jim Barker

REPLY TELECOPIER NUMBER: (202) 416-2403 or (202) 416-2517

REPLY TELEPHONE NUMBER: (202) 416-7032

DATE: 12/10/93 **TIME:** 1:45 p.m. EST

TOTAL PAGES IN MESSAGE, INCLUDING THIS COVER PAGE: 3

MESSAGE: The following documents are FYI. First is a copy of a December 9 letter from Congressman Leach to Roger Altman requesting access to documents related to Madison Guaranty. My understanding is that Peter Knight is coordinating with his counterparts at Treasury, but I wanted to make sure that you were aware of this one. The same issues that we encountered in the HomeFed matter are present here. Second is a copy of an electronic mail message I received from Rex Taylor which I think is pretty much self-explanatory. Please call me if we need to discuss either of these matters. Thanks.

HENRY B. GONZALEZ, TEXAS, CHAIRMAN

[illegible]

From: Jack Birkley

Call: Bill Crilishaw

Tom Hindes has a copy.

File
Madison/
Guaranty

[illegible] LEACH, IOWA

[illegible]

[illegible] SANDERS, VERMONT

[illegible]

The Honorable Roger C. Altman
Interim Chief Executive Officer
Resolution Trust Corporation
15th and Pennsylvania Avenue, N.W.
Washington, D.C. 20220

Dear Mr. Altman:

I am writing in reference to the House Banking Committee Minority investigation of the failure of Madison Guaranty Savings and Loan (Madison). As you know, Madison was taken over by federal regulators in March of 1989 and resolved by the Resolution Trust Corporation (RTC) in November, 1990.

To assist in this investigation, I request that the RTC provide access to all documents related to Madison and its subsidiaries. Such documents would include, but not be limited to, administrative files, examination reports, interoffice memorandum, notes and minutes of meetings (including telephonic meetings), correspondence, electronic mail, and agreements the RTC entered into with private sector contractors during the resolution of Madison. In addition to documents in possession at RTC-Washington, I request access to all documents related to Madison held at RTC field offices. Furthermore, please provide the names and titles of all RTC employees involved with the disposition of Madison.

Please have your staff contact Mike McGarry at 202-225-2258 to discuss arrangements to review the aforementioned documents as soon as possible.

I appreciate your assistance and look forward to your cooperation.

Sincerely,

James A. Leach
Ranking Member

RTC
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Resolving The Crisis
Restoring The Confidence

January 14, 1994

MEMORANDUM

To: Vice Presidents
Assistant Vice Presidents

From: Jack Ryan
Deputy CEO

Re: Madison Guaranty Savings and Loan Association ✓

The RTC has received numerous requests for information on Madison Guaranty Savings and Loan Association and related matters. Interim CEO Roger Altman is committed to responding to these requests as promptly and thoroughly as possible.

In order to assure that the RTC's response to requests on these matters is thorough, accurate, and timely, I have established a working group to coordinate the collection and distribution of all information and material responsive to the requests. The working group is comprised of James Dudine, William Collishaw, and Peter Knight.

I am sure that I can count on the full cooperation of you and your staff with the working group. Please see that this memorandum is distributed to the appropriate staff.

801 17th Street, N.W. Washington, D.C. 20434

To: Vice Presidents
Assistant Vice Presidents

From: Jack Ryan
Deputy CEO

Re: Madison Guaranty Savings and Loan Association

Date: January 14, 1994

In light of the intense interest in Madison Guaranty Savings and Loan Association and related matters, I wanted to provide you with a brief report on the RTC's response thus far to congressional inquiries. As stated in the attached letter from Interim CEO Roger Altman to Representative James Leach, the RTC is cooperating thoroughly in this investigation.

In order to assure a thorough, accurate, and timely response, I am establishing a working group under the direction of___________. The working group will coordinate and gather all relevant records, information, and material for transmission to the appropriate authorities.

I am sure that I can count on the full cooperation of you and your staff with the working group to ensure that the RTC can answer all questions within the scope of our responsibilities and involvement in this matter. Please see that this memorandum is distributed to the appropriate staff.

Enclosure

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

January 14, 1994

MEMORANDUM

To: Vice Presidents
Assistant Vice Presidents

From: Jack Ryan
Deputy CEO

Re: Madison Guaranty Savings and Loan Association

In light of the intense interest in Madison Guaranty Savings and Loan Association and related matters, I wanted to provide you with a brief report on the RTC's response thus far to congressional inquiries. As stated in the attached letter from Interim CEO Roger Altman to Representative James Leach, the RTC is cooperating thoroughly in this investigation.

In order to assure a thorough, accurate, and timely response, I am establishing a working group under the direction of__________. The working group will coordinate and gather all relevant records, information, and material for transmission to the appropriate authorities.

I am sure that I can count on the full cooperation of you and your staff with the working group to ensure that the RTC can answer all questions within the scope of our responsibilities and involvement in this matter. Please see that this memorandum is distributed to the appropriate staff.

Attachment

801 17th Street, N.W. Washington, D.C. 20434

RTC
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December 22, 1993

The Honorable James A. Leach
Ranking Minority Member
Committee on Banking, Finance & Urban Affairs
U. S. House of Representatives
Washington DC 20515

Dear Jim:

I am writing in response to your letter dated December 9, 1993, requesting that the Resolution Trust Corporation provide certain documents and records for the House Banking Committee Minority investigation of the failure of Madison Guaranty Savings and Loan Association located in McCrory, Arkansas. Madison Guaranty is an institution in receivership with the RTC.

Let me reassure you that the RTC will thoroughly cooperate in this investigation. Indeed, it was the RTC which originally referred this matter to the Justice Department. RTC staff has been instructed to assemble the relevant documents, which are voluminous, as quickly as possible.

Ideally we would forward all of these materials to you today, and I expect to supply most of them in short order. I am advised by the RTC General Counsel, however, that there may be limits on our ability to provide certain of them. These limits involve the Privacy Act and legal privilege or other restrictions on the ability of the RTC to release them. This will have to be coordinated with the Justice Department. I have instructed the RTC staff to work with your staff on appropriate procedures for handling these issues.

Sincerely,

Roger C. Altman
Interim CEO

801 17th Street, NW Washington, DC 20434

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WHITEWATER/MADISON: RECUSAL

Question:

Secretary Altman, why have you failed to recuse yourself thus far from the RTC's work relating to Madison Guaranty? How many discussions have you had concerning Madison and related matters?

Answer:

WHITEWATER/MADISON: TREASURY INVOLVEMENT

Question:

Have any other officials of the Treasury Department been involved in any substantive discussions relating to the RTC's handling of Madison or related matters?

Answer:

- It is my understanding that any other involvement by Treasury personnel has been solely with respect to the process being followed and has not dealt with substantive issues.

WHITEWATER/MADISON: CONVERSATIONS WITH WHITE HOUSE

__Question__:

Secretary Altman, have you or any other Treasury officials held any conversations with the White House concerning this matter?

__Answer__:

WHITEWATER/MADISON: JUSTICE DEPARTMENT

Question:

Has the Justice Department told the RTC what it can and cannot tell the Congress in matters relating to Madison County?

Answer:

- **Consistent with past practices, the RTC has discussed the release of information that the Justice Department believes may hamper or affect its investigation of matters in which the RTC has information or an interest.**

WHITEWATER/MADISON: ROSE LAW FIRM

Question:

Secretary Altman, has the RTC investigated the Rose law firm and whether or not it correctly represented possible conflicts when soliciting business with the RTC? Have you recused yourself from this matter?

Answer:

- The FDIC, as exclusive agent for FSLIC, was the original conservator of Madison and, as such, retained the Rose law firm. I understand that the FDIC has investigated the circumstances arising out of that relationship and has released a report. We have been apprised of the contents and conclusions contained in it and have no information which would lead us to a different conclusion.

WHITEWATER/MADISON: INDEPENDENT COUNSEL

Question:

Secretary Altman, has the RTC been in contact with the Independent Counsel Robert Fiske? Have you participated in these conversations?

Answer:

- **I understand that there have been several telephone conversations with Mr. Fiske and his staff and members of RTC's Legal staff. I have participated in no such discussions.**

WHITEWATER/MADISON: CONGRESSIONAL REQUESTS FOR INFORMATION

Question:

Why has the RTC taken the position that an individual member of Congress only has the standing of an average citizen when making requests of the agency for information? Isn't it true that there is a certain amount of flexibility in interpreting the law regarding this question? Mr. Altman, were you involved in this decision? Were any other Treasury officials involved in this decision?

Answer:

- The RTC has taken the position that requests for information from individual Members of Congress have the same standing as FOIA requests and are subject to the same exceptions. There is no credible legal theory or authority to the effect that the law is otherwise.
- Providing privileged information to an individual Member of Congress would likely waive all applicable privileges and could also result in other violations of FOIA.
- Our position is consistent with that of other agencies and of the Department of Justice.
- We are most concerned that we take no steps which would impair our ability to carry out our responsibilities or violate relevant law.
- At the same time, we have provided individual Members of Congress with significant amounts of documentation and information within the limitations which I have described and we will continue to cooperate to the fullest extent possible.
- The decisions made with respect to information which may appropriately be shared have been made by the staff of the RTC in accordance with normal procedures.

WHITEWATER/MADISON: CONGRESSIONAL REQUEST FOR INFORMATION

Question:

Why is the RTC refusing to provide information about Madison and Whitewater to this Committee?

Answer:

- At the present time the RTC is cooperating with the investigations by individual members (Rep. Leach/Sen. D'Amato) to the fullest extent possible under the law.

Question:

Haven't you refused to provide specific information to Members of the Committee (Rep. Leach/Sen. D'Amato) and their staffs which they have advised you is extremely important to their carrying out of their duties?

Answer:

- Absent a request from the Committee, the RTC is limited with respect to for general areas:

  (a) Information regarding the personal and corporate financial records in it possession;

  (b) Information relating to criminal investigations;

  (c) Information which is privileged; and

  (d) Material relating to possible civil litigation.

WHITEWATER/MADISON: CONGRESSIONAL REQUEST FOR INFORMATION

Follow up:

As a Committee Member (Minority Member) and as a participant in this hearing, I am formally requesting that you supply the material previously requested (by Rep. Leach/Sen. D'Amato).

Answer:

In order to change this approach, the RTC needs clarification from the Chair as to whether a request during the hearing from an individual member constitutes a formal request by the Committee as part of this hearing on the Thrift Depositor Protection Oversight Board.

Follow up:

As the Chairman of this Committee (Chairman Riegle/Chairman Gonzalez), I am requesting that you provide the information requested to the majority and minority staffs of this Committee.

Response:

The RTC, in addition to its obligations to comply with law is deeply concerned about the providing of information which could have a negative impact on its investigation or litigation of any matter. Furthermore, the Justice Department has already requested that with respect to Madison, we make no information available about criminal referrals without its consent.

Follow up:

I insist.

WHITEWATER/MADISON: CONGRESSIONAL REQUEST FOR INFORMATION

Response:

Alternative A:

May I reiterate our concerns about possible negative affects on our investigation. However, since the Committee is making a formal request, I request on behalf of the RTC that appropriate safeguards be implemented after consultation with the staff of the Committee to protect the confidentiality of information and to preserve the privileged nature of any information disclosed. Furthermore, the RTC will consult with the independent counsel to advise the Committee of its position on the impact on the independent counsel's investigation before providing any information.

Alternative B:

Mr. Chairman, the RTC will respond as to its position on this request expeditiously after consultation with the independent counsel.

Background:

- **The RTC has previously provided privileged information to Congressional Committees with safeguards such as a promise of confidentiality or under a threat of subpoena which protects the agency from a claim that its privileges have been waived by disclosure to Congress. For example, the RTC has disclosed:**
  - **information regarding Southwest Savings litigation to Senate Banking under a promise of confidentiality;**
  - **information regarding Homefed to House Banking under threat of subpoena; and**
  - **certain authority to sue memoranda to the House Subcommittee on Civil Service under a promise of confidentiality by the Chairman of the Subcommittee, after the original request by Congresswoman Schroeder for such information was declined.**
- **In the absence of such safeguards the RTC would have to consider all its options to include executive privileges in order to avoid jeopardizing its statutory obligations.**

WHITEWATER/MADISON: CRIMINAL REFERRALS

__Question__:

How many criminal referrals were made by the RTC relating to Madison? When were they made? Could you provide a copy of these referrals to the committee?

__Answer__:

- **It is the policy of the RTC not to discuss criminal referrals.**
- **All questions concerning criminal investigations should be directed to the Justice Department, and in the case of Madison to the Independent Counsel Robert Fiske.**

WHITEWATER/MADISON: CIVIL ACTIONS

Question:

Why has it been almost five years since Madison failed and no civil action has been taken while many criminal referrals have been made?

Answer:

- While an in-depth response concerning the actions taken by the RTC in connection with Madison must await a later date, let me provide you with a review of significant events:
    - The original statute of limitations for Madison civil claims expired on the three-year anniversary of the appointment of a receiver in early 1992.
    - Before that point, there was a civil claim pursued first by FDIC and then the RTC against Madison's former auditors; this case was originally filed by Madison prior to its failure and was successfully settled. Certain other litigation was also pursued.
    - Despite the fact the statute of limitations for civil claims had expired early in 1992, the RTC has continued to assess Madison, as well as other institutions as to whether criminal referrals should be made since the limitations period for criminal charges is longer.
    - It was only the middle of December 1993, with the enactment of the RTC Completion Act, that the statute of limitations was renewed with respect to a limited class of civil actions.
    - As part of the recently enacted California Earthquake relief bill, Congress extended the statute of limitations which would otherwise have expired institution by institution on dates from early in 1994 onward, to December 31, 1995.

WHITEWATER/MADISON: CIVIL SUIT

Question:

Secretary Altman, last year you sent a letter to this committee indicating that the RTC had never missed a statute of limitations deadline, and that therefore an extension of the statutes was not necessary. Apparently no civil suits against directors, officers, or law firms involved with Madison were brought. Does this mean that the Madison situation was reviewed and that a decision was made at some point in the past that a suit would not be brought? When was this decision made?

Answer:

- **For all the reasons described above, it is not appropriate to discuss an individual case at this time.**

THE DEPUTY SECRETARY OF THE TREASURY
WASHINGTON, D. C. 20220

March 2, 1994

Ms. Ellen Kulka
General Counsel
Resolution Trust Company
801 17th Street, N.W.
Washington, D.C. 20434

Dear Ellen:

Thank you for all of your efforts preparing for the Oversight Board hearings. I especially want to thank Sharon Hume, Tom Hindes, Erica Cooper, Greg Golden, Jack Binkley, Margaret Lunsford, Mary Hopkins and James Barker for their late night efforts on Tuesday and Wednesday.

Maybe I will let you handle the next one alone!

Sincerely,

Roger C. Altman

To: John E. Ryan@CEO@RTCDC,Ellen B. Kulka@Legal-sc@RTCDC
James M. Barker@Legal-sc@RTCDC
Peter E. Knight@OGR@RTCDC,Jack M. Buckley@OES@RTCDC
April A. Breslaw@Legal-pls@RTCDC
Gregg H.S. Golden@Legal-lit@RTCDC
James J. Igo@Legal-pls@RTCDC
Terry S. Arbit@Legal-pls@RTCDC
Steve S. Primrose@OGR@RTCDC
Wilma H. Lekan@Legal-sc@RTCDC
Sharon D. Hume@Legal-sc@RTCDC
Margaret L. Lunsford@Legal-sc@RTCDC
Mary D. Hopkins@Legal-lit@RTCDC
Meg J. Kruse@CEO@RTCDC
Cc:
Bcc:
From: Thomas L. Hindes@Legal-pls@RTCDC
Subject:
Date: Tuesday, March 8, 1994 11:00:16 EST
Attach:
Certify: N
Forwarded by: Thomas L. Hindes@Legal-pls@RTCDC

Forwarded to: Casey Carter@OGR@RTCDC
cc:
Forwarded date: Tuesday, June 28, 1994 14:11:04 EDT
Comments by: Thomas L. Hindes@Legal-pls@RTCDC
Comments:

This will show you the people who got the document request on the GJ subpoena. You will see it was just DC people because we didn't think anyone else would have anything on White House or Treasury contacts. (Buckley was a mistake -- it should have been Binkley). I would suggest we use the same philosophy on this go-round, adding Dudine, Aboussie and Roelle maybe.

Forwarded to: Stephen J. Katsanos@Comm@RTCDC
cc:
Forwarded date: Tuesday, March 8, 1994 13:03:27 EST
Comments by: Thomas L. Hindes@Legal-pls@RTCDC
Comments:

Steve,

I should have included you on the list for this e-mail. Please let me know if you have any responsive documents. Thanks.

------------------------- [Original Message] -------------------------

Interim CEO Roger Altman has forwarded to the RTC a copy of a Grand Jury subpoena he received, requiring the production of certain specified documents. The nature of the request is such that the recipients of this e-mail are believed to be the only persons at the RTC who might be in possession of responsive documents. To summarize, the subpoena requires the production of documents "referring or relating to any contacts, meetings or conversations about or regarding Madison Guaranty. . . held between or among" White House or Hillary Rodham Clinton staff and Treasury or RTC employees. In short, they are looking for documents that in any way discuss or refer to meetings that may have been held between White House personnel and anyone from DOT or RTC. The most obvious -- and the only known examples of any such documents -- would be certain "Q & A" materials prepared in connection with the Senate Banking Hearing on February 24. We do not intend to limit our search to those "Qs & As", however, and if anyone has any knowledge of other responsive documents, interpreting the request in the broadest possible terms, please let me or Jim Barker know ASAP. If you have any questions about the interpretation of this request, again call Jim or myself. If you think there might be anyone else who should receive this request -- the recipients are people who participated in some fashion in preparing the Senate testimony and the Q & A responses -- please let me know.

The return date on the subpoena is Thursday morning, March 10, and we need to pull our documents together very quickly. Margaret Lunsford is going to collect and organize this data, and I would request that you place any responsive documents in your possession in a file folder and deliver them to Margaret. Her office is in the General Counsel's suite, 10th floor, 801 17th. Please try to complete this process by the end of the day. If for some reason you cannot complete this task by the end of the day, please so inform me. Thank you.

To: A. Bowen Hinton@OLA@RTCKC
Cc:
Bcc:
From: Casey Carter@OGR@RTCDC
Subject: MGB
Date: Wednesday, December 22, 1993 15:03:58 EST
Attach:
Certify: N
Forwarded by:

Peter has just given me a copy of the letter Treasury sent over to Leach this afternoon from Altman. I will fax that to you immediately. Upon receipt of the letter, Leach's staff called Peter and requested a meeting TODAY - ugh! Peter put them off until 10:30 tomorrow morning. I have explained to Peter that the information I am collecting from everyone is VERY preliminary. If you get any more info before 10:30 tomorrow send it on over. Thanks.

17114

Madison G. S&L

E. Kulka
B. Collishaw
M. Gavellion
P. Knight
J. Binkley

1/21/94

① ✱ Institution's Criminal Referral → on McDougal

memo to Ellen

② – need to have something that gives us clear indication of how this was handled in the past - chronology of events "understand where we've been"

③ – our record management going to Little Rock & McCrory

④ 2-7-94 Tom's original deadline on PLS preliminary

⑤ – PLS/Investigations joint group on PLS suits

⑥ – Rose law firm - docs - FDIC

Warehouse - boxes

RTC
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February 24, 1994

PETER, I HAVE TAKEN THE ORIGINAL DOCUMENT AND PULLED OUT ALL THE QUESTIONS NOT RELATED TO MADISON...

MEMORANDUM TO: Jack Ryan
Deputy CEO

MEMORANDUM FROM: Peter Knight
Director
Office of Governmental Relations

SUBJECT: Senate Oversight Board Hearing
February 24, 1994

We have completed a review of the transcript from the Senate Banking Committee hearing last Thursday. Below are excerpts from the transcript that include all of the questions asked directly to Mr. Altman and the replies Mr. Altman gave. Questions that warrant further follow up are bolded and assigned to the proper area for response.

We expect to receive additional written questions from the Senate Banking Committee by the middle of next week. OGR will coordinate the assignments of the responses to those questions at that time.

Senator Bond
Pg. 109 ln 3-10
"Mr. Altman, are there special measures taken in the resolution of a failed thrift when you find it to be affiliated with a high profile individual? Someone in government, for example?
Mr. Altman. The procedures, Senator, which the RTC follows are intended to be identical in each case; and they certainly have been identical in the case discussed this morning."

Senator Bond
Pg. 109 ln 11-21
"After you discovered that the President of the United State's name might be mentioned in a criminal referral being made by your agency, did you take any steps to ensure that documents created in the case were protected and preserved?
Mr. Altman. When the possibility of a criminal referral was brought to me, I took one step. That was to instruct all of the relevant RTC personnel to handle any judgements about criminal referral in the same exact fashion that they would be handled in any other PLS matter with no deviation whatsoever. As far as documents are concerned, the same thing."

801 17th Street, N.W. Washington, D.C. 20434

Senator Bond
Pg. 109 ln 24 - Pg. 110 ln 1
"You instructed them to handle the documents in the same way?
Mr. Altman. That is correct."

Senator Bond
Pg. 110 ln 2-13
"Were there any instructions received by you or, to your knowledge, anyone in your agency from the Department of Justice, the White House, or Special Counsel with respect to the retention of documents?
Mr. Altman. To the best of my knowledge, and I believe I know this, there were no requests or conversations with the White House whatsoever on that. With regard to Justice and Special Counsel, I am advised there have been conversations, the essence of which is with each party reminding the other not to take steps or release information which could jeopardize either party's investigation."

Senator Bond
Pg. 110 ln 17-23
"Can you assure the Committee that no one has issued any instructions to you or your agency to retrieve, relocate, destroy, or tamper with any documents dealing with Madison, its affiliated enterprises, directors, owners, or business partners?
Mr. Altman. I have no knowledge whatsoever of any such effort."

Senator Bond
Pg. 110 ln 24 - Pg. 111 ln 8
"Has anyone in your agency, specifically the Department of Records Management, indicated to you there are any missing documents? Or has anybody discovered any files missing or unaccounted for?
Mr. Altman. No
Senator Bond. You are absolutely sure?
Mr. Altman. No. Your question was: Has anybody indicated to me.
Senator Bond. All right.
Mr. Altman. The answer is 'no.'"

Senator Bond assigned to Legal
Pg. 111 ln 9-19
"Would you inquire of your Records Management Agency whether they have either (a) been given instructions about the handling of documents from somebody outside; or, if they have found any evidence of missing documents, or find that there are documents apparently missing, if you would inquire of that and advise us if you do find that there is such information?
Mr. Altman. Yes"

Senator Bond
Pg. 111 ln 20 - Pg. 112 ln 4
"Finally, will the RTC release copies of the initial September 1992 referral to the Department of Justice, and copies of the second referral on October 1993?
Mr. Altman. Senator, we are not in a position to release any documents that could have a negative impact on the investigation. I do not think you would want us to do that. Documents of that type that you are talking about fall into that category."

17127

Senator Bond
Pg. 112 ln 5 - Pg. 113 ln 10
"Allegations were made by Susan McDougal that many of the Whitewater files were actually delivered to Mrs. Clinton in 1987. What steps have been taken by your agency to recover those files, or to ascertain where those files might exist?
Mr. Altman. I have no knowledge of that matter.
Senator Bond. Have you heard of the allegation?
Mr. Altman. Actually, no.
Senator Bond. Mr. Altman, I know there are many aspects to it. I was just reading one of the stories appearing in Commentary which referred to those allegations. We do not know if they are true or not, but I would suggest that someone should make inquiry to ascertain whether there is any truth to the allegations and, if so, to take appropriate steps to recover such documents. Finally, where are the documents being kept? And have they been thoroughly catalogued?
Mr. Altman. I can assure you that all proper procedures relative to safeguarding of documents are being followed. We also have a responsibility in regard to any case to obtain all the necessary materials for purposes of making a litigation decision. So any documents that the legal staff at the RTC believes would pertain, or would help it reach a conclusion on a litigation decision on this or any other matter, it makes a maximum effort to obtain.
Senator Bond. But on that, you have no knowledge of the specific question I asked about the records potentially in the possession of Mrs. Clinton?
Mr. Altman. None whatsoever."

Senator Sarbanes
Pg. 132 ln 4-19
"Do I understand that the cases to which they are making such reference were handled in the same way that all other cases were handled? In other words, according to regular procedures?
Mr. Altman. Yes.
Senator Sarbanes. And was anything unusual done in these cases? Or was the procedure that was followed consistent with what was followed in any cases where references were made?
Mr. Altman. Senator, the instructions that I gave were that all procedures, normal procedures, should be followed in this manner without any deviation.
Senator Sarbanes. And to the best of your knowledge, that is the case. Is that correct?
Mr. Altman. Yes."

Senator Gramm
Pg. 149 ln 10 - Pg. 151 ln 3
"Mr. Altman, I want to ask you first. Have you or any member of your staff had any communication with the President, the First Lady, or any of their representatives including their legal counsel, or any member of their White House staff, concerning Whitewater or the Madison Savings & Loan?
Mr. Altman. I have had one substantive contact with White House staff, and I want to tell you about it.

Pg. 154 ln 13-16

Pg. 155 ln 12-23

Pg. 158 ln 2 - Pg. 159 ln 5

Pg. 161 ln 8-13

Pg. 161 ln 22 - Pg. 162 ln 5

Pg. 162 ln 9 - Pg 163 ln 14

Pg. 169 ln 10 - Pg. 172 ln 4

Pg. 173 ln 11-21

Pg. 182 ln 11-14

Pg. 182 ln 23 - Pg. 189 ln 8

Pg. 190 ln 14 - Pg. 192 ln 8

Pg. 193 ln 17 - Pg. 194 ln 14

Pg. 207 ln 1-5

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

February 24, 1994

MEMORANDUM TO: Jack Ryan
Deputy CEO

MEMORANDUM FROM: Peter Knight
Director
Office of Governmental Relations

SUBJECT: Senate Oversight Board Hearing
February 24, 1994

We have completed a review of the transcript from the Senate Banking Committee hearing last Thursday. Below are excerpts from the transcript that include all of the questions asked directly to Mr. Altman and the replies Mr. Altman gave. Questions that warrant further follow up are bolded and assigned to the proper area for response.

We expect to receive additional written questions from the Senate Banking Committee by the middle of next week. OGR will coordinate the assignments of the responses to those questions at that time.

Senator Bennett assigned to Denver Regional Office
Pg. 54 ln 25 - Pg. 55 ln 8
"Finally, Mr. Chairman, I would submit, for the record, a comment that appeared in the Denver Post that I find quite disturbing. It is signed by a John B. Cavanaugh who is listed as the Oversight Manager in the Denver Office of the RTC. I do not, by any means, say that I agree with Mr. Cavanaugh and the accusations that he made, but it is a very inflammatory thing coming from an RTC official and I would hope it would go in the record and that there would be some kind of response."
Senator Riegle. Without objection, we will place it in the record. I would like to see it."

Senator Kerry assigned to Legal
Pg. 105 ln 18 - Pg.106 ln 25
"To date, what is the total amount of money recovered to date from directors or officers of these institutions nationally?
Mr. Altman. $640 million, Senator
Senator Kerry. $640 million?
Mr. Altman. I meant from institutions. From institutions.
Senator Kerry. And that is recovered through liability cases?
Mr. Altman. Those are criminally related recoveries.
Senator Kerry. What about civil? Is there any at this point?
Mr. Altman. In addition to that figure I gave you, about $745

17130

million from civil-related recoveries.
Senator Kerry. So we have in fact recovered $1.3 billion? Is that correct?
Mr. Altman. (Nods in the affirmative)
Senator Kerry. Can you break down where that has taken place? It is my understanding that 42% of the total cost of the bailout was Texas. Is there a corresponding recovery rate, or any kind of rate you could give us as to where the most money came from ?
Mr. Altman. I do not have that information with me, Senator, on state-by-state breakouts.
Senator Kerry. Would it be possible just to get that at some point in time?
Mr. Altman. We would be happy to do our best to do so.
Senator Kerry. I think it would be good to have a sense of that."

Senator Bond
Pg. 109 ln 3-10
"Mr. Altman, are there special measures taken in the resolution of a failed thrift when you find it to be affiliated with a high profile individual? Someone in government, for example?
Mr. Altman. The procedures, Senator, which the RTC follows are intended to be identical in each case; and they certainly have been identical in the case discussed this morning."

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"After you discovered that the President of the United State's name might be mentioned in a criminal referral being made by your agency, did you take any steps to ensure that documents created in the case were protected and preserved?
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Senator Bond
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"You instructed them to handle the documents in the same way?
Mr. Altman. That is correct."

Senator Bond
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Mr. Altman. To the best of my knowledge, and I believe I know this, there were no requests or conversations with the White House whatsoever on that. With regard to Justice and Special Counsel, I am advised there have been conversations, the essence of which is with each party reminding the other not to take steps or release information which could jeopardize either party's investigation."

Senator Bond
Pg. 110 ln 17-23

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"Can you assure the Committee that no one has issued any instructions to you or your agency to retrieve, relocate, destroy, or tamper with any documents dealing with Madison, its affiliated enterprises, directors, owners, or business partners?
Mr. Altman. I have no knowledge whatsoever of any such effort."

Senator Bond
Pg. 110 ln 24 - Pg. 111 ln 8
"Has anyone in your agency, specifically the Department of Records Management, indicated to you there are any missing documents? Or has anybody discovered any files missing or unaccounted for?
Mr. Altman. No
Senator Bond. You are absolutely sure?
Mr. Altman. No. Your question was: Has anybody indicated to me.
Senator Bond. All right.
Mr. Altman. The answer is 'no.'"

Senator Bond assigned to Legal
Pg. 111 ln 9-19
"Would you inquire of your Records Management Agency whether they have either (a) been given instructions about the handling of documents from somebody outside; or, if they have found any evidence of missing documents, or find that there are documents apparently missing, if you would inquire of that and advise us if you do find that there is such information?
Mr. Altman. Yes"

Senator Bond
Pg. 111 ln 20 - Pg. 112 ln 4
"Finally, will the RTC release copies of the initial September 1992 referral to the Department of Justice, and copies of the second referral on October 1993?
Mr. Altman. Senator, we are not in a position to release any documents that could have a negative impact on the investigation. I do not think you would want us to do that. Documents of that type that you are talking about fall into that category."

Senator Bond
Pg. 112 ln 5 - Pg. 113 ln 10
"Allegations were made by Susan McDougal that many of the Whitewater files were actually delivered to Mrs. Clinton in 1987. What steps have been taken by your agency to recover those files, or to ascertain where those files might exist?
Mr. Altman. I have no knowledge of that matter.
Senator Bond. Have you heard of the allegation?
Mr. Altman. Actually, no.
Senator Bond. Mr. Altman, I know there are many aspects to it. I was just reading one of the stories appearing in Commentary which referred to those allegations. We do not know if they are true or not, but I would suggest that someone should make inquiry to ascertain whether there is any truth to the allegations and, if so, to take appropriate steps to recover such documents. Finally, where are the documents being kept? And have they been thoroughly catalogued?
Mr. Altman. I can assure you that all proper procedures relative to safeguarding of documents are being followed. We also have a responsibility in regard to any case to obtain all the necessary

materials for purposes of making a litigation decision. So any documents that the legal staff at the RTC believes would pertain, or would help it reach a conclusion on a litigation decision on this or any other matter, it makes a maximum effort to obtain.
Senator Bond. But on that, you have no knowledge of the specific question I asked about the records potentially in the possession of Mrs. Clinton?
Mr. Altman. None whatsoever."

Senator Boxer assigned to Legal
Pg. 114 ln 13 - Pg. 115 ln 18
"... I am also interested in seeing if there were conflicts when lawyers were hired in some of the bigger closures. For example, there were as I understand it, 14 S&L closures that cost the taxpayers more than $1 billion each. Of these mega-failures, 6 were located in Texas, 2 in California, 2 in Arizona, 1 in New Jersey, 1 in Florida, and 1 in Pennsylvania. I would like to ask you - and since the Chairman said a Senator can make a request - that in these mega failures, these six {FOURTEEN}, I would like you to go back and take a look at the law firms that we used at that time to see if there were conflicts of interest and, at the same time that you issue this to Senator D'Amato, I would very much appreciate knowing that. Because I do have a big concern about the scams that were going on at the time.
Mr. Altman. Yes"

Senator Bennet assigned to Assets
Pg. 124 ln 24 - Pg. 126 ln 8
"In one instance we were told, I was told, that while it was technically an auction, the RTC had determined the price; and that if I would simply submit a bid for this price, I would be guaranteed to get it; that the RTC would not entertain any other requests... But it was my understanding that the people who did ultimately pick up the property did it for the price we were told was the price...
Mr. Altman. I would like to make two points. The first is: That is not how it is supposed to work. If it worked that way, taking your comments in their entirety, it should not have...
Senator Bennet. I will just assume it was a mistake at a particular circumstance, and I am grateful to you for your response.
Senator Riegle. Well, perhaps a look could be taken at what was going on there. Let us not have it happen again."

Senator Sarbanes
Pg. 132 ln 4-19
"Do I understand that the cases to which they are making such reference were handled in the same way that all other cases were handled? In other words, according to regular procedures?
Mr. Altman. Yes.
Senator Sarbanes. And was anything unusual done in these cases? Or was the procedure that was followed consistent with what was followed in any cases where references were made?
Mr. Altman. Senator, the instructions that I gave were that all procedures, normal procedures, should be followed in this manner without any deviation.
Senator Sarbanes. And to the best of your knowledge, that is the case. Is that correct?
Mr. Altman. Yes."

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Senator Gramm
Pg. 149 ln 10 - Pg. 151 ln 3
"Mr. Altman, I want to ask you first. Have you or any member of your staff had any communication with the President, the First Lady, or any of their representatives including their legal counsel, or any member of their White House staff, concerning Whitewater or the Madison Savings & Loan?
Mr. Altman. I have had one substantive contact with White House staff, and I want to tell you about it.

Pg. 154 ln 13-16

Pg. 155 ln 12-23

Pg. 158 ln 2 - Pg. 159 ln 5

Pg. 161 ln 8-13

Pg. 161 ln 22 - Pg. 162 ln 5

Pg. 162 ln 9 - Pg 163 ln 14

Pg. 169 ln 10 - Pg. 172 ln 4

Pg. 173 ln 11-21

Pg. 182 ln 11-14

Pg. 182 ln 23 - Pg. 189 ln 8

Pg. 190 ln 14 - Pg. 192 ln 8

Pg. 193 ln 17 - Pg. 194 ln 14

Pg. 207 ln 1-5

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

June 30, 1994

MEMORANDUM TO:	John Adair Inspector General
FROM:	John E. Ryan Deputy Chief Executive Officer
SUBJECT:	Investigation of Treasury/White House contacts re: Madison Guaranty

I am requesting your assistance in the investigation of the Treasury/White House contacts regarding Madison Guaranty Savings and Loan.

As you know, Secretary Bentsen previously requested the Office of Government Ethics (OGE) to investigate whether there were any ethics or conflicts issues raised by contacts between White House and Treasury officials concerning the Resolution Trust Corporation's work with respect to Madison Guaranty Savings Association. Secretary Bentsen offered the Treasury's Inspector General (IG) to assist the Office of Government Ethics with the matter. At that time, Independent Counsel Robert Fiske requested that the OGE and Treasury's IG defer their work until Mr. Fiske notified them that their work would not interfere with Mr. Fiske's investigation.

Today Mr. Fiske announced that he has completed his investigation into this matter and Secretary Bentsen asked that the OGE and Treasury's IG resume their work. The Treasury's IG has requested the RTC's IG's assistance to interview one or more officials at RTC. Therefore, I am requesting that you assist Treasury's IG

Attachment

cc: Kulka
Knight

17135

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

March 3, 1994

MEMORANDUM TO: Peter Knight

MEMORANDUM FROM: Casey Carter

SUBJECT: Meetings with Congressional Offices Regarding Madison Guaranty

The RTC has had the following meetings with congressional offices relating to Madison Guaranty Savings and Loan as of March 3, 1994. These discussions primarily involved broad or specific document requests.

Date	Cong. Office	Cong. Staff	RTC Staff
December 23, 1993	Cong. Leach	Tony Cole Joe Seidel John Scharfenberg Margo Tank	Peter Knight Bill Collishaw Casey Carter
December 27, 1993	Cong. Leach	Joe Seidel	Peter Knight Casey Carter
December 30, 1993	Cong. Leach	Mike McGarry	Bowen Hinton
January 5, 1994	Cong. Leach	Joe Seidel John Scharfenberg Mike McGarry Margo Tank	Peter Knight Carl Gamble Jack Binkley Phil Lindenmuth Steve Primrose
January 24, 1994	Sen. D'Amato	Howard Mennell	Jack Ryan Peter Knight
January 31, 1994	Sen. D'Amato	Doug Nappi	Peter Knight Jack Binkley Casey Carter Steve Primrose
February 28, 1994	Cong. Leach	Joe Seidel Mike McGarry John Scharfenberg	Peter Knight Tom Hindes

801 17th Street, N.W. Washington, D.C. 20434

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RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

June 30, 1994

Honorable Lloyd M. Bentsen
Secretary
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

Dear Mr. Secretary:

Pursuant to your letter I received earlier today, I have requested the Resolution Trust Corporation's Inspector General assist the Treasury's Inspector General with the investigation involving the contacts between White House and Treasury officials concerning the RTC's work with respect to Madison Guaranty Savings and Loan. Enclosed please find a copy of the memorandum I sent to the RTC's Inspector General requesting his involvement.

If I can be of further assistance with this effort please let me know.

Sincerely,

John E. Ryan
Deputy and Acting CEO

Enclosure

cc: Kulka
Adair
Knight

801 17th Street, N.W. Washington, D.C. 20434

17137

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

January 14, 1994

MEMORANDUM

To: Vice Presidents
Assistant Vice Presidents

From: Jack Ryan
Deputy CEO

Re: Madison Guaranty Savings and Loan Association

The RTC has received numerous requests for information on Madison Guaranty Savings and Loan Association and related matters. Interim CEO Roger Altman is committed to responding to these requests as promptly and thoroughly as possible.

In order to assure that the RTC's response to requests on these matters is thorough, accurate, and timely, I have established a working group to coordinate the collection and distribution of all information and material responsive to the requests. The working group is comprised of James Dudine, William Collishaw, and Peter Knight.

I am sure that I can count on the full cooperation of you and your staff with the working group. Please see that this memorandum is distributed to the appropriate staff.

17138

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

December 22, 1993

MEMORANDUM

TO:
Dennis Geer
Bill Collishaw
James Barker
Jack Binkley
Casey Carter

FROM:
Peter Knight, Acting Director PK
Office of Governmental Relations

RE:
Access To All Documents Related to Madison [Guaranty Savings and Loan]

For your information, attached is the response to Congressman Leach's letter requesting access to all documents related to Madison [Guaranty Savings and Loan].

cc: Ben Nye

STEPHEN L. NEAL, NORTH CAROLINA
JOHN J. LAFALCE, NEW YORK
BRUCE F. VENTO, MINNESOTA
CHARLES E. SCHUMER, NEW YORK
BARNEY FRANK, MASSACHUSETTS
PAUL E. KANJORSKI, PENNSYLVANIA
JOSEPH P. KENNEDY II, MASSACHUSETTS
FLOYD H. FLAKE, NEW YORK
KWEISI MFUME, MARYLAND
MAXINE WATERS, CALIFORNIA
LARRY LAROCCO, IDAHO
BILL ORTON, UTAH
JIM BACCHUS, FLORIDA
HERBERT C. KLEIN, NEW JERSEY
CAROLYN B. MALONEY, NEW YORK
PETER DEUTSCH, FLORIDA
LUIS V. GUTIERREZ, ILLINOIS
BOBBY L. RUSH, ILLINOIS
LUCILLE ROYBAL-ALLARD, CALIFORNIA
THOMAS M. BARRETT, WISCONSIN
ELIZABETH FURSE, OREGON
NYDIA M. VELAZQUEZ, NEW YORK
ALBERT R. WYNN, MARYLAND
CLEO FIELDS, LOUISIANA
MELVIN WATT, NORTH CAROLINA
MAURICE HINCHEY, NEW YORK
CALVIN M. DOOLEY, CALIFORNIA
RON KLINK, PENNSYLVANIA
ERIC FINGERHUT, OHIO

U.S. HOUSE OF REPRESENTATIV
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
ONE HUNDRED THIRD CONGRESS
2129 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6050

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SPENCER BACHUS III, ALABAMA
MIKE HUFFINGTON, CALIFORNIA
MICHAEL CASTLE, DELAWARE
PETER KING, NEW YORK

BERNARD SANDERS, VERMONT

(202) 225-4247

December 9, 1993

The Honorable Roger C. Altman
Interim Chief Executive Officer
Resolution Trust Corporation
15th and Pennsylvania Avenue, N.W.
Washington, D.C. 20220

Dear Mr. Altman:

I am writing in reference to the House Banking Committee Minority investigation of the failure of Madison Guaranty Savings and Loan (Madison). As you know, Madison was taken over by federal regulators in March of 1989 and resolved by the Resolution Trust Corporation (RTC) in November, 1990.

To assist in this investigation, I request that the RTC provide access to all documents related to Madison and its subsidiaries. Such documents would include, but not be limited to, administrative files, examination reports, interoffice memorandum, notes and minutes of meetings (including telephonic meetings), correspondence, electronic mail, and agreements the RTC entered into with private sector contractors during the resolution of Madison. In addition to documents in possession at RTC-Washington, I request access to all documents related to Madison held at RTC field offices. Furthermore, please provide the names and titles of all RTC employees involved with the disposition of Madison.

Please have your staff contact Mike McGarry at 202-225-2258 to discuss arrangements to review the aforementioned documents as soon as possible.

I appreciate your assistance and look forward to your cooperation.

Sincerely,

James A. Leach
Ranking Member

17140

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

December 30, 1993

MEMORANDUM

To: Roger C. Altman

From: Peter E. Knight

Re: Status Report on Leach Investigation

At the request of Jean Hanson, I will prepare regular status reports on the RTC's response to Rep. Leach's request for documents relating to Madison Guaranty.

The broad scope of the request could cover more than 200,000 pages of documents. This includes 39 linear feet of legal documents, 207 boxes of investigative files, 165 boxes of general institution documents, 45 roles of microfiche of institution records, 30 boxes of contractor files, asset files, and various other categories. We are asking Rep. Leach's staff to narrow the request by reviewing an extensive inventory of documents which we hope to have completed by January 7.

Last Week:

We have established a working group of OGR (Office of Governmental Relations), Legal, Investigations, and FOIA (Freedom of Information Act) staff that will assemble, itemize, and analyze documents. The analysis will be to ensure that privacy, privilege, and the Department of Justice's concerns are protected. All communication with Rep. Leach's staff will be coordinated by OGR.

This week, Rep. Leach's staff reviewed public legal documents, contracting information, and resolutions documents in Washington and Kansas City. We will start the process of redacting Madison Board minutes by FOIA staff for review by Rep. Leach's staff and will provide them on a rolling basis.

801 17th Street, N.W. Washington, D.C. 20434

DOJ Concerns:

Attached is a letter we received from the Criminal Division at Justice which instructs us to consult them before providing any criminal referrals or documents which reflect Justice's information requests to the RTC. While this is a narrow scope of documents, the letter does tell the RTC to "make every effort to maintain the integrity of the RTC files to the maximum possible extent."

We are expecting to get another letter from Justice the end of next week that will expand the scope of protected documents to include all documents that were attached to criminal referrals. We will not provide any investigations documents until this point is clarified.

Legal Issues:

Our attorneys are reviewing the legal standing of the Leach request in anticipation of future discussions with Rep. Leach over whether or not this is an official committee request. Leach's staff told me on December 23 that he would be providing us with legal analysis prepared by the House Counsel that supports the contention that this is an official committee investigation. Leach's staff has not yet presented any legal material on this point, and it is doubtful that our position will change. Our attorneys will complete their work by January 7.

Our attorneys are also examining the question of whether or not our providing material to the Congressman would require us to make all material provided to him available to the public (if requested).

Summary of actions:

12/23/93:	RTC OGR and legal staff met with Rep. Leach's staff to start the process initiated by your response to Rep. Leach. We informed Rep. Leach's staff that efforts were underway to locate all Madison documents and to prepare an inventory to facilitate narrowing the amount of documents requested.
12/27/93	Established an RTC working group (from Washington and Kansas City) to include staff from OGR, Legal, Investigations, and the FOIA unit.
12/28/93	Rep. Leach's staff came to Washington RTC offices to review public legal documents relating to Madison.
12/29/93	Washington OGR and Legal staff traveled to Kansas City and met with senior legal, investigations, and executive staff to develop a coordinated response effort.
12/30/93	Rep. Leach's staff visited the Kansas City office to review contracting documents, an inventory of Madison's assets, redacted Congressional inquiries relating to Madison, and lists of all legal contracts and matters

17142

pending. The staff also visited our Iron Mountain document storage facility where we have over 120,000 boxes of files stored.

Attachment

cc: Jean Hanson
Dennis Geer
James Barker

17143

U. S. Department of Justice

Washington, D.C. 20530

17 DEC 1993

John C. Binkley, Counsel
Department of Corporate Resolution
Resolution Trust Corporation

Philip J. Lindenmuth
Chief, FOIA/PA Branch
Resolution Trust Corporation

This letter responds to recent telephone conversations with both of you in which we discussed the handling of a number of Freedom of Information Act (FOIA) requests to the Resolution Trust Corporation (RTC) for records related to criminal referrals to the Department of Justice concerning the Madison Guaranty Savings and Loan Association. We request only that the RTC consult with this Unit before releasing any criminal referrals previously made to the Department or any memoranda or notes which reflect the Department's requests to your agency for specific information.

For purposes of its investigation, the Criminal Division requests that the RTC make every effort to maintain the integrity of the RTC files to the maximum possible extent.

Thank you for your advice and assistance on this matter.

Sincerely,

Marshall R. Williams

Marshall R. Williams, Chief
FOI/PA Unit
Office of Enforcement Operations
Criminal Division

By Fax

17144

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

February 16, 1994

MEMORANDUM TO: Jack Ryan
Ellen Kulka

MEMORANDUM FROM: Peter Knight PK

SUBJECT: Madison Guaranty
Outstanding Congressional Inquiries

Listed below are outstanding inquiries from Members of Congress relating to Madison Guaranty as of today's date. Attached is a listing of documents that have been provided to Cong. Leach and Senator D'Amato thus far.

REP. LEACH

2/3/94 requested whether RTC Interim CEO should recuse himself from decisions pertaining to Madison Guaranty. Response was due 2/7/94, draft with Legal.

2/16/94 requested documentation compiled for a PLS inquiry Gonzalez made 5/93. Peter Knight to discuss with Ellen Kulka.

Ongoing effort to continue to provide redacted material (including Madison Board Minutes) pursuant to FOIA Privacy Act.

SENATOR D'AMATO

1/13/94 requested chronology of events reflecting the RTC's involvement with Madison. Legal drafting chronology.

2/8/94 requested information regarding recusals by the Interim CEO and RTC's policies pertaining to recusals. The Ethics office is drafting reply for review by Ellen Kulka.

SENATOR FAIRCLOTH

2/8/94 Faircloth and 40 other Senators wrote regarding RTC efforts relating to possible civil litigation on Madison. Draft reply forwarded to Legal 2/9/94.

SENATOR BOND

2/15/94 requested information regarding the Rose Law Firm. Legal is presently compiling data.

Sign #20
3-2-94

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

March 2, 1994

MEMORANDUM TO: John Adair
Inspector General

FROM: John E. Ryan
Deputy Chief Executive Officer

SUBJECT: Investigation of Report Dated Feb. 8, 1994 of the Office of Contact Oversight and Surveillance titled Rose Law Firm RTC/OCOS-T94002-WA

As you know, Interim CEO Roger Altman, in his appearance at the semi-annual hearing on February 24, 1994 of the Resolution Trust Corporation/Thrift Depositor Oversight Board conducted by the Senate Committee on Banking, Housing and Urban Affairs, said that he would request that the RTC Inspector General review the report dated Feb. 8, 1994 of the Office of Contract Oversight and Surveillance titled Rose Law Firm RTC/OCOS-T94002-WA (copy attached). Since that date, Mr. Altman has recused himself and has delegated all of his authority and all of his responsibilities concerning any matter connected to or arising out of Madison Guaranty Savings and Loan Association to me. Therefore, I am requesting that you conduct an investigation, in accordance with your normal operating procedures, of the substance addressed by the report.

Furthermore, I am requesting that you also audit fees paid to the Rose Law Firm by the RTC on any matter, or by the FDIC on any matter where the FDIC retained the Rose Law Firm, (i) as managing agent for the FSLIC, or (ii) as the legal arm of the RTC before this corporation maintained its own legal division. Please direct your report to the General Counsel, Ellen B. Kulka.

Attachment

cc: Kulka

801 17th Street, N.W. Washington, D.C. 20434

17/46

Altman wants weekly status report

12/27/93 10:15 P. Knight
D. Garrett
Carey Carter

*Maelle Smith Statement made"

FOIA
1. Is Leach a comm- or member? (OTS said member)
if give to Leach, anyone can get under FOIA.

[redacted]

new idea - isolate referrals & documents related
do not give those

Privacy act - borrowers/depositors name
12/27/93 11:00 D. Cavina
K.C. ~~D~~J [illegible] Windsett
D. Swiss
J. Jankowski
Bowen Hunter

ideally ship to Leach staff to look @ his work
D.C & K.C

D-Swiss from K.C. is there a special group/task force.
(legal dir) D.C Binkley
Colloshaw/Kaupers
Garrett/[illegible]
C. Carter
FOIA(?)

Swiss" concern - 30 linear ft. of material
17147

need 1-2 people dedicated in legal to be the clearing house from legal – Collishaw said Jack playing that role.

D. Cannon asked. do we know clearly what we give?
1. Binkley - Leach's position. in theory what we give him. we have to give to anybody else (via FOIA)
[[redacted]

give them soon:
(CALS) inventory of 65 contracts.
Inventory of closed litigation – (RLIS)
if they choose things off inventories.
we pull files & let them copy what they want

only subpoena that will keep us from releasing documents is if records are ceased or sealed

CALS
RLS
Resolution files
Severance case
Congressionals

17148

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

March 9, 1994

MEMORANDUM TO: Jack Ryan
Ellen Kulka
Tom Horton
Johnnie Booker
Barry Kolatch
Donna Cunninghame
Paul Ramey
John Lynn
Tom Hindes
Erica Cooper

MEMORANDUM FROM: Peter Knight

SUBJECT: Post-hearing questions from Feb. 23, 1994
Semi-annual Oversight Board Hearing
Senate Banking Committee

Attached is a list of questions the Senate Banking Committee Members submitted for the record. On the left margin we have identified who is responsible for responding to each question.

Following the written questions, a list of verbal questions that were posed at the hearing is attached. Please reference your responses to those as "verbal response #...".

We would like the responses completed by Friday April 8. Please E-mail your responses as an attachment to Casey Carter. Be sure to identify each question when you send it. Feel free to send the answers as they are completed. Please don't wait until the last minute to send them all. Thank You.

801 17th Street, N.W. Washington, D.C. 20434

DONALD W. RIEGLE, JR., MICHIGAN, CHAIRMAN
PAUL S. SARBANES, MARYLAND
CHRISTOPHER J. DODD, CONNECTICUT
JIM SASSER, TENNESSEE
RICHARD C. SHELBY, ALABAMA
JOHN F. KERRY, MASSACHUSETTS
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PETE V. DOMENICI, NEW MEXICO

STEVEN B. HARRIS, STAFF DIRECTOR AND CHIEF COUNSEL
HOWARD A. MENELL, REPUBLICAN STAFF DIRECTOR

United States Senate
COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS
WASHINGTON, DC 20510-6075

March 7, 1994

TO: Peter Knight -- RTC
fax 416-2452

FROM: Kelly Cordes, Senate Banking, Housing, and Urban Affairs Committee
phone (202) 224-1568 fax (202) 224-5137

RE: Post-hearing questions from the February 23, 1994 hearing on the semi-annual report of the RTC Oversight Board.

There may be more questions submitted at a later date. I will call and let you know should that occur.

Please call me if you have any questions. Thank you.

17/50

DONALD W. RIEGLE, JR., MICHIGAN, CHAIRMAN

PAUL S. SARBANES, MARYLAND
CHRISTOPHER J. DODD, CONNECTICUT
JIM SASSER, TENNESSEE
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PETE V. DOMENICI, NEW MEXICO

STEVEN B. HARRIS, STAFF DIRECTOR AND CHIEF COUNSEL
HOWARD A. MENELL, REPUBLICAN STAFF DIRECTOR

United States Senate
COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS
WASHINGTON, DC 20510-6075

March 7, 1994

The Honorable Roger C. Altman
Interim Chief Executive Officer
Resolution Trust Corporation
1801 Seventeenth Street, NW
Washington, DC 20434-0001

Dear Mr. Altman,

Thank you for testifying at this Committee's February 24, 1994, hearing on the semi-annual report of the RTC Oversight Board.

It would be greatly appreciated if you would have your responses formatted in the following manner:

(1) Please title your responses indicating which Senator asked the question (e.g.,"Questions from Chairman Riegle").
(2) Set forth the question, then the answer to it, and single-space both questions and answers.
(3) Include the number of each question and answer (e.g., "Q.1." and "A.1.
(4) Do not use all capitals.

Please send your reply to Kelly Cordes, the Committee's chief clerk. She will transmit copies of your response to the Committee's publication office.

If you have any questions please contact Ms. Cordes at (202) 224-1568.

Sincerely,

Don Riegle

Donald W. Riegle, Jr.
Chairman

Enclosure

17151

From Senator Bond

QUESTIONS FOR RTC ACTING DIRECTOR ALTMAN:

Another area of concern is the seeming lack of coordination between the RTC and the Department of Justice.

⑥ E. Kulka T. Hindes

-- In March of 1992, the New York Times reports on the Whitewater/Madison situation with allegations of sweetheart deals in return for lenient regulatory treatment, and the issue suddenly became part of the 1992 Presidential campaign. RTC then sends a new team of investigators to Arkansas to look more closely at connections to local politicians.

Is this an accurate portayal of the reason/reasons that the RTC became involved again in the Madison case? If not, what did occur? Who made the decision to begin investigation of Madison? Did the RTC regional office notify the national office, or the Department of Justice that they were opening a potential case against Madison? If so who was informed?

⑦ E Kulka T Hindes

-- In September 1992 regional RTC forwards a criminal complaint dealing with Madison Guranty to the Depart of Justice. According to press reports the local federal attorney in Little Rock is concerned that because Bill Clinton is included in the referral, that the decision to pursue the case should be made in Washington. He sends an urgent letter on October 7, 1992 asking for assistance.

Are the press reports accurate? Please provide a copy of that letter for the record.

⑧ E. Kulka T. Hindes

-- Then Attorney General Barr is apparently concerned that pursuing the case one month before the election will look as if the Justice Department was being politicized, and so sends the referral to career people with DOJ with instructions that it be treated no different than any other referral.

Is this the RTC's understanding of events? If not, what is your understanding?

(9)

E. Kulka
T. Hindes
/ [illegible]

-- March of 1993 the DOJ reports their recommendation that no action is "warranted", referral and recommendation then forwarded to the new Federal attorney in Little Rock Paula Casey.

Meanwhile, the RTC has decided to send investigators back to Little Rock in Jan of 1993, and they begin working on second, broader referral.

Is this description of the chronology correct? If not, what did occur?

(10)

Hindes
[illegible]

-- In September of 1993 the KC regional office of the RTC, now again concerned that their referral will mention the President's name -- not to accuse him of any specific crime, but noting he may have benefited from crimes that had been committed, asks the national office for assistance in determining whether the President's name is to be part of the referral.

R. Altman

#2.

Mr Altman has testified that he knew nothing of this request. Who in the National office was aware of the request, and who then made the decision to not inform the acting director of the RTC of the request.?

(11)

E. Kulka
T. Hindes
/ [illegible]

-- The new referral is sent to DOJ, and arrives in Little Rock a short time before Little Rock federal prosecutor Paula Casey finally makes a decision on the original RTC referral -- saying she "concurs" that no further action is "warranted". But she doesn't act on the second referral.

Is this accurate? Specifically note for the record when the second (Oct 1993) referral was sent, to whom, and when it was received.

In : ommittee understand:

⑫
E. Kulka
T. Hindes
17958

•W ...y communication from the field or regional office re. st - of the first (Sept 92') referral? Did they ask the national office for assistance in moving the process along? If so who asked whom? What was Washington's response? If possible, please provide copies of all correspondence relating to moving the referral along.

⑬
E. Kulka
T. Hindes
17955

•Did Washington follow up by contacting the Department of Justice? If so, who contacted who? What was the response, and who was it from? Again please provide any correspondence pertaining to this issue.

⑭
E. Kulka
T. Hindes
1795

•Did RTC officials contact the Little Rock attorney's office to check on the status of the referral? If so who made the contacts and when? And what was the response? And who was it from ? Again please provide any correspondence pertaining to this issue.

⑮
E. Kulka
T. Hindes
17958

•What is the standard operating procedure when the field seeks answers on referrals? Is it SOP that the RTC would not hear for a year the status of their referral? Is it SOP that while waiting, the RTC field office would send additional investigators to continue digging -- and then send up an expanded referral, even before hearing on the first?

⑯
E. Kulka
T. Hindes
17988

•Specifically, who decided to send RTC investigators back to Little Rock in January of 1993? Was Washington informed? Did local or regional office ask permission to proceed, given that no anwers had been forthcoming from Justice on the first referral? Was Justice informed of this action? If so, who was informed and when?

Again please provide any correspondence pertaining to this issue.

⑰
E. Kulka
T. Hindes
17958

•What was the reason for the decision to send personnel back to Little Rock in January 1993? What happened between September 1992 when the RTC sent up its criminal referral, and January when they sent investigators back to Little Rock?

⑱
E. Kulka
T. Hindes
17955

•Was the RTC -- either local, regional or D.C. informed of the March

17154

19, 1993 memo by DOJ that RTC referral "did not appear to warrant initiation of criminal action"? Why not? Who is responsible for communicating these decisions?

(19)
E. Kulka
T. Hindes
17158

•When the second stronger, broader referral was sent up in October of 1993, did the RTC make a specific push to Justice saying we have more information, please make a decision? Was the RTC informed that the decision was at that point resting in the hands of the Little Rock federal prosecutor? Did they send the referral directly there, or a copy directly there, knowing of the delays of the past?

17155

NEW "OB Q&A" MATERIALS

GO TO THE "OB Q&A" TAB OF YOUR BRIEFING BOOK. REMOVE ALL MATERIALS FROM THAT SECTION. [DO NOT REMOVE THE "OB Q&A" TAB]

INSERT THE ATTACHED CLIPPED MATERIALS INTO THIS SECTION.

NOTE: NEW Qs OR CHANGES ARE NOTED WITH AN * BY THE Q IN THE INDEX.

17156

02/23/94
3:15pm

INDEX: QUESTIONS AND ANSWERS

*= new or modified Q&A

Funding [See Fact Sheet #'s 3,8]:

How much of the appropriated money will be needed by the RTC and by SAIF? 1*
How much in loss funds has the RTC used so far? 2
What will the total cost of the cleanup be ('88 Deals, SAIF, and interest)? 3
Can remaining RTC funds be returned to Treasury to reduce deficit? 4
What is the assurance that "extra" funds will not be "frittered away? 5
Will the RTC borrow money from the FFB in 1994? 6

S&L Industry [See Fact Sheet #'s 4,8,31]:

How will increased rates impact the S&L industry? 7
How many S&L's can we still expect to fail? 8*

RTC Leadership [See Fact Sheet # 30]:

When will the RTC have a permanent CEO? 9
What is the status of Roger Altman under the Vacancies Act? 10*

RTC Life [See Fact Sheet # 34]:

Can RTC close sooner than 12/31/95, as called for by the RTC Completion Act? 11
When do you contemplate that the thrift industry will be turned over to SAIF? 12

RTC Operations & Management [See Fact Sheet #'s 5,6,11,12,13,29,30]:

Is the Board satisfied with RTC's implementation of the management reforms? 13
How is the Board's effectiveness in getting RTC to modify its policies? 14
Has the RTC improved its responsiveness to audits findings? 15
Has an audit committee be appointed?; Have they met, or taken any actions? 16
Is the Board satisfied that RTC has solved its whistleblower problems? 17
What has the Board done to ensure that RTC corrects whistleblower problems? 18
What has the RTC Ombudsman done to protect whistleblowers against retaliation? 19
Has the Board assessed RTC's ability to monitor its contracts? 20
Has RTC done anything to correct its contracting procedures? 21
What will the Board do about GAO's audit of loan servicing oversight? 22
When will the problems at RTC pointed out by OIG and GAO reports? 23
What savings have been achieved by RTC management reforms so far? 24

RTC Asset Disposition [See Fact Sheet #'s 5,6,14,15,16,17,18]:

What is the real return on the sale of RTC assets? 25*
What is the RTC's "hard to sell strategy?"; Does the Board agree with that strategy? 26
Has the RTC used the best sales methods to get the most monetary return? 27
Has each property and non-performing loan sale been individually analyzed? 28*
Has RTC allotted enough resources to perform the analysis of these assets? 29
What are the RTC policies that assure property is marketed for at least 120 days? 30
Are small investors still being squeezed out of the market by huge conglomerates? 31
In what cases will RTC have corresponding offices handle properties nearest them? 32
How far is the RTC going to go in securitizing non-performing assets? 33
Why are SAMDA contracts being ended?; What about these assets? 34

MWOB Programs [See Fact Sheet #'s 5,24,25,26]:

Is the Board allowing RTC to disregard Congress' MWOB intent in the RTC bill? 35
Why isn't RTC implementing the provision about S&L's in minority neighborhoods? 36
What is really being done in regards to opportunities for MWOB contracts? 37

17157

Affordable Housing [See Fact Sheet #'s 20,27,28]:

Will the Board support appropriations to implement the affordable housing changes? 38
What is the status of the mandated Housing Opportunity Hotline? 39

Professional Liability Issues [See Fact Sheet #'s 5,6,21,22,23]:

Has an Assistant General Counsel been appointed for PLS issues? 40
Why does it appear that nothing has been done to improve the PLS section? 41
How can you believe that your management reform of the PLS can be achieved? 42*
What is RTC doing to review claims affected by the extension of the statute of limitations? 43*
What changes have occurred in the PLS section to improve restitutions? 44
Has Attorney General Reno informed you of DOJ's role in pursuing S&L crooks? 45

Madison/Whitewater [See Fact Sheet # 23]:

When did the Board first know of the President's and Mrs. Clinton's involvement? 46
What involvement has the Board had with respect to RTC's investigation of Madison? ... 47
Did RTC OIG or GAO make reports to the Board regarding Madison/Whitewater? 48
What has the Board done to ensure that this affair is properly investigated? 49
Was the Board aware of RTC being requested to provide related information? 50
Did the Board discuss how the RTC should release this information? 51
Do you agree that a Member has citizen's standing when requesting Agency information? . 52*
Did the Board at any meetings discuss the Madison/Whitewater issues? 53
Will the Board proffer all communications with RTC, beginning with the investigation? 54
Would the Board provide the Committee any reports on this issue in RTC files? 55
Would the Board provide a copy of the Criminal Reference letter sent to DOJ? 56
Did RTC offer all documentation to appropriate Congressional Committee staff? 57
When did the RTC discover the President's and Mrs. Clinton's involvement? 58
When did the RTC refer this case to DOJ? 59
Was the referral made because of the President's and the First Lady's involvement? 60
Could you direct OTS to honor our requests and turn over relevant documents?; 61*
Does Treasury have any documents relating to Vince Foster's death? 62*

Miscellaneous Issues:

What has been done about the required salary and bonus caps at the RTC? 63
Has the Board established any policy for the RTC's CEO compensation package? 64
Has RTC paid any more large bonuses at cost to the taxpayer? 65
What resources has the RTC made available to California earthquake victims? 66
Is there a role the RTC could play in furthering community development issues? 67
What do you think are the major lessons learned from the S&L clean-up? 68
What did Stanley Tate do while employed with the Board?; What about his report? 69
What responsibilities was the Board given in the RTC Completion Act? 70*

MADISON/WHITEWATER: OB KNOWLEDGE

Question:

When did the Oversight Board first learn that the issue with Madison Guaranty S&L and Whitewater involved the President and Mrs. Clinton?

Answer:

- The Board has had no involvement in this issue.

NOTE: SEE FACT SHEET # 23

MADISON/WHITEWATER: BOARD INVOLVEMENT WITH RTC' MADISON INVESTIGATION

Question:

What involvement has the Oversight Board had with respect to the RTC's investigation into Madison Guaranty?

Answer:

- The Oversight Board is not involved in matters involving specific RTC investigations, and it has had no involvement in this matter.

NOTE: ELLEN KULKA QUESTION, ADDED 2/23/94

17160

MADISON/WHITEWATER: RTC, IG, OR GAO REPORTS TO BOARD

Question:

The IG and GAO make reports to the Oversight Board regarding ongoing investigations. What did they report to you regarding Madison Guaranty S&L and Whitewater matters?

Answer:

- The issue was never brought to the Board's attention by the RTC, IG, or GAO.

NOTE: SEE FACT SHEET # 23

MADISON/WHITEWATER: OB ACTION

Question:

What has the Oversight Board done to assure that the Madison/Whitewater affair is properly investigated?

Answer:

- The Board has no authority to intervene and is not responsible, by law, for case-specific matters such as the RTC's criminal referral of specific cases.
- The Oversight Board has not been involved in any manner with RTC's investigation of this case.

[NOTE: The Board has no information suggesting that the RTC's policies regarding criminal referrals are being handled improperly.]

NOTE: SEE FACT SHEET # 23

MADISON/WHITEWATER: CONGRESSIONAL REQUEST FOR DOCUMENTATION

Question:

Was the Oversight Board aware of the Congress' request that RTC provide documentation and other materials related to Whitewater for review?

Answer:

- The Oversight Board only became aware of this request from press reports.

NOTE: SEE FACT SHEET # 23

17163

51

MADISON/WHITEWATER: OB ROLE IN RELEASE OF DOCUMENTATION

Question:

Did the Oversight Board discuss how the RTC should release information on the Whitewater matter?

Answer:

- No.
- The Oversight Board has not been involved in any manner with RTC's investigation or handling of this case and has had no related discussions with RTC.

NOTE: SEE FACT SHEET # 23

17164

MADISON/WHITEWATER: RTC COOPERATION

Question:

Secretary Bentsen, do you agree with the position taken by the RTC that an individual member of Congress only has the standing of an average citizen when making requests of the agency for information?

Answer:

- The request of individual members of Congress for information is not a new issue. It is an issue that I dealt with as Chairman of the Senate Finance Committee.
- This issue has been raised on numerous occasions involving many executive agencies. Mr. Altman has informed me that the RTC's established policy for handling situations such as this is consistent with that of other Executive agencies and the Justice Department. Perhaps Mr. Altman could provide you with a discussion of this issue.
- I am told that the RTC has provided individual members of Congress with significant amounts of documentation and information within statutory limitations and that it will continue to cooperate to the fullest extent possible.
- The RTC has taken the position that requests for information from individual members of Congress, as contrasted with requests from congressional committees, have the same standing as Freedom of Information Act (FOIA) requests and are subject to the same exceptions.
- I have been told that there is not credible legal theory or authority to the effect that the law is otherwise.
- Providing privileged information to an individual member of Congress would likely waive all applicable privileges and could also result in other violations of law.
- There is a concern that the RTC not take steps which would impair it and the Special Counsel's ability to carry out their responsibilities or violate relevant law.

17165

53

MADISON/WHITEWATER: DISCUSSIONS AT OB MEETINGS

Question:

Did the Oversight Board at any of its meetings, including closed or executive sessions, discuss the Madison Guaranty S&L or Whitewater issues?

Answer:

- No.

NOTE: SEE FACT SHEET # 23

17166

54

MADISON/WHITEWATER: COPIES OF OB TRANSCRIPTS & COMMUNICATIONS

Question:

Will the Oversight Board make available to the Committee copies of all transcripts, minutes, or notes from its meetings or its communication with RTC during the period beginning with RTC's investigation of Madison Guaranty or Whitewater?

Answer:

- The Oversight Board has never discussed these matters with RTC or others including at any open or closed meeting of the Oversight Board.
- **There are no records at the Oversight Board related to Madison Guaranty or Whitewater.**

NOTE: SEE FACT SHEET # 23

17167

MADISON/WHITEWATER: EXAMINATION REPORTS

Question:

Would you provide the Committee (or members of the Committee) any examination reports or supervisory reports on Madison Guaranty S&LA in RTC files?

Answer:

- The Oversight Board does not have copies of the reports.
- The Board has no information suggesting that the RTC's policies regarding criminal referrals or investigations are being handled improperly.
  - The Oversight Board has no immediately evident "oversight" basis on which to require the RTC to provide such reports to the Board.

[Mr. Altman would have the same answers as a member of the Oversight Board, but a different response to the initial question as RTC CEO.]

NOTE: SEE FACT SHEET # 23

17168

MADISON/WHITEWATER: CRIMINAL REFERENCE LETTER

Question:

Would you provide the Committee with a copy of the Criminal Reference letter sent to the Department of Justice by the RTC concerning Madison Guaranty S&LA, McCrory, Arkansas? If you do not have a copy would you please require the RTC to furnish a copy of the document to the Committee?

Answer:

- The Oversight Board does not have a copy of the document. (Criminal Reference Letter)
- The Oversight Board may require the RTC to provide documents only to the extent "necessary to carry out its oversight responsibilities."
    - To our knowledge, the RTC's criminal reference policies and procedures are adequate and have not been criticized by such entities as the GAO or the RTC IG. We therefore have no "oversight" basis on which to make such a request of the RTC.

[Mr Altman would have the same answers as a member of the Oversight Board, but a different response to the initial question as RTC CEO.]

NOTE: SEE FACT SHEET # 23

17169

MADISON/WHITEWATER: RTC COOPERATION

Question:

Did RTC make all documentation and material on the Whitewater matter available to the Congressional Committee staff charged with investigating this issue?

Answer:

- I would have to defer to Mr. Altman to answer that question.

17170

MADISON/WHITEWATER: PRESIDENT'S ALLEGED INVOLVEMENT

Question:

When did RTC discover that President and Mrs. Clinton were involved in the Madison/Whitewater affair?

Answer:

- I would have to defer to Mr. Altman to answer that question.

17171

MADISON/WHITEWATER: RTC REFERRAL TO DOJ

Question:

When did RTC refer this case to the Justice department?

Answer:

- I would have to defer to Mr. Altman to answer that question.

NOTE: SEE FACT SHEET # 23

17172

60

MADISON/WHITEWATER: RTC REFERRAL TO DOJ

Question:

Was the referral made because the President and First Lady were involved? What other reasons were given for the referral?

Answer:

- I would have to defer to Mr. Altman to answer that question.

NOTE: SEE FACT SHEET # 23

17173

MADISON/WHITEWATER: OTS INVOLVEMENT

Question:

The Office of Thrift Supervision (OTS) has consistently refused to provide members of this Committee copies of documents in its possession related to its work on Madison Guaranty. Secretary Bentsen since the OTS is under your general supervision, could you direct the OTS to honor our requests and turn over the relevant documents?

Answer:

- While it is true that the OTS is subject to the general oversight of the Secretary of the Treasury, there is a statutory prohibition against the Secretary of the Treasury "intervening in any matter or proceeding before the Director of the OTS unless otherwise provided by law."
- The Treasury and the OTS consider the Madison Guaranty matter still before the Director and I am therefore prohibited from intervening in any aspect of that matter.
- Perhaps Mr. Feichter would like to expand on that response.

Question:

Secretary Bentsen have you or any members of your staff had any discussion with the OTS on any aspect of their work on Madison Guaranty?

Answer:

- There is a statutory prohibition against the Secretary of the Treasury (which includes Treasury staff) from "intervening in any matter or proceeding before the Director of the OTS unless otherwise provided by law."
- The Treasury and the OTS consider the Madison Guaranty matter still before the Director and we are therefore prohibited from intervening in any aspect of that matter.

MADISON/WHITEWATER: CONGRESSIONAL REQUEST FOR DOCUMENTS

Question:

Does Treasury have any documents relating to Vince Foster's death?

Answer:

- We recently received a Congressional request for such documents. Our search to date has identified several Bureau of Alcohol, Tobacco and Firearms and Secret Service documents.

Question:

What is the Department doing in response to that Congressional request?

Answer:

- We continue to search our files for responsive material. In addition, as you are aware, the jurisdiction of Special Counsel Robert A. Fiske includes looking into the investigation of Mr. Foster's death. Accordingly, we have referred to the Special Counsel the documents that we have located and have asked his views on whether they can be released.

Question:

Why do those bureaus have documents related to the investigation of Mr. Foster's death?

Answer:

- ATF was asked by the Park Police to do laboratory analysis of physical evidence the Park Police had collected in their investigation of Mr. Foster's death. Secret Service generated documents in connection with their responsibility for physical security at the White House, including Mr. Foster's office.

Question:

Why don't you release them?

Answer:

- We have an obligation not to jeopardize an on-going investigation. Although we believe that, at least a portion of them will not be relevant to the investigation, Mr. Fiske is conducting the investigation and it is his decision what documents can be released. We hope that he will give a prompt reply to our request that he make conclusions about these documents.

17175

Madison/Whitewater

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17179

1

Question:

Why are you unwilling to recuse yourself?

Answer:

- First, your obvious point is that I should not play any role in the RTC's eventual decision to pursue a civil claim, or not pursue one, in the Madison Guaranty matter. Well, I probably will not be doing so.
- My appointment as interim CEO under the Vacancy Act expires on March 30, 1994. I will have no role with the RTC beyond that date unless a nomination for permanent CEO has been sent to Congress. That is unlikely. Plus, the RTC General Counsel has advised me that any recommendations she makes on Madison Guaranty will not be formulated before that time. I will, therefore, most likely have no role in the RTC's decisions on the matter.

17180

1a

Question:

If the Administration were to submit a nomination to the Senate before your Vacancy Act appointment expires, will your appointment automatically be extended? If so, how can we be certain that you will not be the CEO when a decision is made?

Answer:

- It is correct that the submission of a nomination to the Senate would be extended the appointment. However, in my view it is very unlikely that a nomination will be formally submitted by the end of March.

Question:

But what if a nomination were submitted?

Answer:

- I would have to evaluate the situation. But, frankly, I think it is extremely unlikely.

17181

Question:

You still should recuse yourself. Why don't you?

Answer:

- **As I said, the point is probably moot. Most likely, I'll have no role in any RTC decisions on pursuing a civil claim in the Madison matter.**
- **Also, I consulted both with the relevant RTC ethics officer and with the relevant Treasury ethics officer.**
- **Both ethics officers advised me that there was no requirement for a recusal in this matter. The specific statutes and regulations involved do not define this as a case requiring recusal.**
- **Both ethics officers advised me that any decisions on recusal normally would be made when a matter is ready for decision. The Madison matter, as I've said, is not ready.**

17182

Question:

Doesn't your relationship with The President and Mrs. Clinton require a recusal? Isn't there the appearance of a conflict of interest?

Answer:

- First, as I said, I'll probably not be playing any role in this matter.
- Second, I'm playing no role whatsoever right now in the RTC's investigation of this case. I've seen no documents. I've had no conversations at all on where the investigation stands. I have no idea what recommendations the General Counsel will reach. They probably will be completed after I've left.
- Third, I might point out the RTC referred this matter to the Justice Department for possible criminal review last October. I was also interim CEO at that time.
- I was advised at that time that such a review was being conducted and that a decision on referral to Justice would be made.

Question:

Were you asked how it should be handled?

Answer:

- As certain Treasury and RTC officers will attest, I took the position that normal procedures should be followed. If such a decision on referral was typically made at the regional office level, my view was that it should be made that way in this matter.

17183

Question:

What conversations/contacts have you had with The White House on this matter?

Answer:

- I've had one brief meeting and one incidental conversation. Approximately three weeks ago, Jean Hanson (Treasury General Counsel) and I requested a meeting with Mr. Nussbaum, White House Counsel.

- The purpose of the meeting was to describe the procedural reasons for the then impending February 28 deadline: Due to the Completion Act, the statute of limitations was retroactively reinstated for certain types of civil claims (those relating to fraud and certain claims relating to intentional misconduct); as it related to Madison Guaranty, it would expire the end of February. Finally, if the RTC were to determine that any such claims existed, the RTC would have to determine whether to seek a tolling agreement or commence litigation.

- We made clear that we had no idea at all what decision would be reached. I did say, however, that if I received a clear recommendation from the RTC's chief legal officer, I would follow it. I also said that I was reserving judgment on a recusal.

- We were only asked one question. Did the RTC intend to provide the same briefing on the RTC's processes to attorneys for the parties in interest. I said that I assumed so but would check with the RTC General Counsel.

- Jean Hanson did check and was told "in due course." I said "fine".

17184

Question:

Why did you brief the White House on those processes?

Answer:

- Solely to ensure that they understood the legal, procedural framework within which the RTC was working. (If you recall, at that time the February 28 date was the subject of major attention in the Congress and the press.) It is not uncommon for meetings of this type to take place. The meeting could have taken place between the lawyers; this was simply a legal briefing with a larger audience.

Question:

Who else attended that meeting?

Answer:

- Mr. Ickes, Ms. Williams and one of Mr. Nussbaum's assistants.

Question:

Were there any other conversations at all?

Answer:

- The only other discussion -- which lasted about five minutes -- occurred later when I indicated that I was not inclined towards a recusal.

Question:

Has the White House attempted to influence your decision on these matters?

Answer:

- No. It is understood that the RTC must complete the task that it has been given and, of course, The White House respects the independence of the RTC.

17185

Question:

Are you a close friend of the Clintons?

Answer:

- I know them well, yes.

Question:

Do you consider yourself a FOB?

Answer:

- Yes, as I understand that term to be used.

Question:

Do you think your relationship with The President should disqualify you from playing any role in Madison?

Answer:

- As I said, I probably won't be playing any role. If I were to play a role my answer would be no. When I was advised that a referral to Justice was likely, my position was that all the normal procedures should be followed. In that case, such decisions are often made by regional offices and my view was that nothing should be different.
- That would be my stance on Madison. If I received a clear recommendation on it from the chief legal officer, I'd follow it.
- I've never played favorites on sensitive matters, let alone one of this sensitivity, and I wouldn't do so here.

17186

6 (con't.)

Question:

Have you attempted to influence the RTC's review of the Madison Guaranty matter or the outcome of its decision?

Answer:

- No.

Question:

Why did the Treasury General Counsel accompany you and not the RTC General Counsel?

Answer:

- We discussed only the broad procedural framework of the statute of limitations issue and the presence of the RTC General Counsel was not necessary. No specifics were, or were intended to be discussed.

17187

6a

Question:

Ricki Tigert chose to recuse herself. You didn't. What's different about the two cases?

Answer:

- I can't comment about Ricki Tigert's decision. I haven't discussed it with her. I don't know the FDIC procedures which pertain to it. It's not my role to speculate on her decision.

Question:

Have you issued any instructions to RTC staff on this investigation? What were they?

Answer:

- I advised the Deputy CEO and the General Counsel of the RTC that I expected that all standard procedures would apply to the RTC's handling of this matter. Other than that, I have issued no instructions.

Question:

Have any other officials of the Treasury Department been involved in any discussions relating to the RTC's handling of Madison or related matters?

Answer:

- I and a very limited number of my Treasury staff have been briefed generally by RTC staff on a variety of issues related to the RTC's review of the Madison matter. Topics include:
    - RTC procedures related to document requests;
    - the causes of action that might be available to the RTC that fall within the extension of the statute of limitations contained in the RTC Completion Act;
    - the normal criteria applied by the RTC in seeking an Authority to Sue, tolling agreements with potential defendants, etc.; and,
    - the applicable statute of limitations and a chronology of the Madison matter beginning in 1989;
- No discussions of the actual decisions to be made by the RTC as to whether any claims exist and should be pursued against specific persons in connection with Madison have been held by me or other Treasury staff.

7606

8a

Question:

Why did the Treasury people participate?

Answer:

- From the outset of my appointment I involved a limited number of Treasury staff to provide support as necessary because there was no permanent General Counsel and no Deputy CEO, and more of my attention was required.

17/9/

9

Question:

What discussion with RTC staff have you personally had on Madison?

Answer:

- I have had some discussions with the Deputy CEO and General Counsel regarding the procedures being followed by the RTC. As I have repeatedly said, I have insisted that the RTC follow established procedures that are used in any other case when dealing with this matter.

17192

9a

Question:

Are you typically briefed on specific PLS cases?

Answer:

- Not generally. But in this case I have received numerous inquiries from Members of Congress for information, which has required an understanding of the issues in order to adequately respond.

17193

Question:

Why has the Treasury General Counsel been so active in this whole matter? She has no responsibilities at the RTC.

Answer:

- The Treasury General Counsel to my knowledge has not been active in the Madison matter.
- The RTC's General Counsel has been directing its efforts and has counseled me about the procedures being followed in the investigation.

1/7/94

Question:

What discussions on Madison have you had with Secretary Bentsen?

Answer:

- I have had three brief discussions with Secretary Bentsen on matters relating to Madison.
- I alerted him that there was a possibility of criminal referrals being made in late September.
- In early February I described to him the process that the RTC was undertaking in connection with its review of Madison in light of the then impending February 28 deadline, and that I had received congressional inquiries on whether I would recuse myself from the matter.
- I told him that I was reserving judgment on the recusal.
- Somewhat later I told him that I was not inclined toward a recusal.

Question:

Why did you have those conversations?

Answer:

- To give him a "heads up" so that he would not be caught by surprise if he was to receive inquiries on these matters as Chairman of the Oversight Board.

17195

Question:

What has he said to you about the Madison investigation?

Answer:

- Nothing.

Question:

Do you mean that he said nothing during your conversations?

Answer:

- Only that he appreciated the "heads up".

17196

Question:

Has the Justice Department told the RTC what it can and cannot tell the Congress in matters relating to Madison Guaranty?

Answer:

- I was advised the RTC had discussions with the Justice Department regarding the release of specific information contained in a criminal referral.
- The RTC regularly discusses such issues with Justice to ensure that RTC disclosure of information will not compromise any Justice investigation.

17197

13a

Question:

Does Treasury have any documents relating to Vince Foster's death?

Answer:

- We recently received a Congressional request for such documents. Our search to date had identified several Bureau of Alcohol, Tobacco and Firearms and Secret Service documents.

Question:

What is the Department doing in response to that Congressional request?

Answer:

- We continue to search our files for responsive material. In addition, as you are aware, the jurisdiction of Independent Counsel Robert A. Fiske includes looking into the investigation of Mr. Foster's death. Accordingly, we have referred to the Independent Counsel the documents that we have located and have asked the views on whether they can be released.

Question:

- Why do those bureaus have documents related to the investigation of Mr. Foster's death?

Answer:

- ATF was asked by the Park Police to do laboratory analysis of physical evidence the Park Police had collected in their investigation of Mr. Foster's death. Secret Service generated documents in connection with their responsibility for physical security at the White House, including Mr. Foster's office.

17/98

13a (con't.)

Question:

Why don't you release them?

Answer:

- We have an obligation not to jeopardize an ongoing investigation. Although we believe that, at least a portion of them will not be relevant to the investigation, Mr. Fiske is conducting the investigation and it is his decision what documents can be released. We hope that he will give a prompt reply to our request that he make conclusions about these documents.

Question:

- Secretary Altman, has the RTC been in contact with the Independent Counsel Robert Fiske? Have you participated in these conversations?

Answer:

- I understand that there have been several telephone conversations with Mr. Fiske and his staff and RTC staff regarding various procedural matters.
  - I have not participated in any of those discussions.

17200

Question:

Tell us about the documents which the RTC provided to Mr. Fiske.

Answer:

- The RTC is cooperating fully with the Independent Counsel. I am advised that in order to protect Mr. Fiske's investigation I should not comment on documents produced to him.

Question:

Who at the RTC has access to these documents?

Answer:

- I only know that the RTC's General Counsel has access. Beyond that I cannot comment.

Question:

What is the RTC doing to get those documents it has previously provided the Justice and Mr. Fiske back?

Answer:

- I understand that the RTC maintains copies of any documents in its possession which it has provided to the Independent Counsel.

Question:

Are there other documents which the RTC needs which it can't get?

Answer:

- The RTC is going to investigate the facts, and seek all documents which are relevant. Obviously it wants to make litigation decisions on the best information in existence and will do whatever is necessary in order to obtain the information it needs.

16a

Question:

Why shouldn't the investigation of Madison be done solely by the Independent Counsel appointed by the Attorney General instead of the RTC conducting its own investigation?

Answer:

- The RTC is required by law to maximize the recoveries of assets from failed institutions in RTC conservatorships or receiverships and the RTC is without authority to delegate its responsibilities in this matter.

17203

Question:

Secretary Altman, has the RTC investigated the Rose Law firm and whether or not it correctly represented possible conflicts when soliciting business with the RTC?

Answer:

- I understand that the General Counsel received a report prepared by the RTC Office of Contractor Oversight. The report was presented to the FDIC during its investigation of the Rose Law Firm.
- With respect to the Office of Contractor Oversight report, the General Counsel has also advised me that the report does not contradict the information reviewed and the conclusions reached by the FDIC.
- The FDIC, as exclusive agent for the FSLIC, was the original conservator of Madison and as such, retained the Rose law firm not the RTC. As you know, the FDIC has investigated the circumstances arising out of that relationship and has released the report. Perhaps Acting Chairman Hove might like to briefly expand upon the report.

NOTE: **If questioned about other RTC institutions where the Rose Firm was hired -- We can get that for the record.**

17204

Question:

Are you aware of the connections between the Rose Law Firm and Madison and/or Whitewater?

Answer:

- I only know what I read in the newspapers.

17205

Question:

Why is the RTC refusing to provide information about Madison and Whitewater to this Committee?

Answer:

- To date the RTC has not received a request from the Committee and is cooperating to the fullest extent possible under the law with the investigations by individual Members of Congress.

17206

19a

Question:

Haven't you refused to provide specific information to members of the Committee and their staffs which they have advised you is extremely important to their carrying out of their duties? Why has the RTC taken the position that an individual Member of Congress only has the standing of an average citizen when making requests of the agency for information?

Answer:

- First, let me say that the RTC has attempted to cooperate as fully as possible under the law with document requests by individual Members of Congress.
- We have provided volumes of information to individual members of Congress regarding Madison Guaranty. We have sent 6,500 pages of material to Senator D'Amato and have been providing documents to Congressman Leach's staff since late December of last year for a total of 13,000 pages.
- The RTC has taken the position that requests for information from individual Members of Congress have the same standing as FOIA requests and are subject to the same exceptions. There is no credible legal theory or authority to the effect that the law is otherwise.
- Providing privileged information to an individual member of Congress would likely waive all applicable privileges and could result in other violations of law.
- RTC's position is consistent with that of other agencies and of the Department of Justice.
- We are most concerned that we not take steps which would impair the RTC's and the Independent Counsel's ability to carry out their responsibilities or violate relevant law.

17207

19a (con't.)

Question:

What are the problems with releasing all the requested documents to individual Members of Congress?

Answer:

- Absent a request from the Committee, the RTC is limited in what it can provide to individual Members of Congress in the following areas:
    - Information regarding the personal and corporate financial records in its possession;
    - Information relating to criminal investigations;
    - Information which is privileged; and,
    - Material relating to possible civil litigation.
- Release of these types of information to individual Members of Congress could jeopardize the governments's ability to bring and subsequently prosecute both civil and criminal matters.
- In addition, the release of certain information could be a violation of the Privacy and Trade Secrets Acts that in turn would lead to possible liability to the government official responsible for their release and to the government as well.

17208

Question:

As a Committee member (Minority Member) and as participant in this hearing, I am formally requesting that you supply the material previously requested (by Rep. Leach/Sen. D'Amato).

Answer:

- As previously stated, it is the RTC's view that a request from an independent member of a committee does not constitute a request by the committee.
- The RTC is in something of an awkward position. Clarification really should be provided by the Committee as to whether a request during the hearing from an individual member constitutes a formal request by the Committee as part of this hearing.

NOTE: You should be aware that the second response could antagonize Senator Riegle.

17209

Question:

As the Chairman of this Committee, I am requesting that the RTC provide the information requested to the majority and minority staffs of this Committee.

Answer:

- The Justice Department and the Independent Counsel, Mr. Fiske, has requested that with respect to Madison, the RTC make no information available about criminal referrals without its consent.
- The RTC, in addition to its obligations to comply with the law the RTC is deeply concerned about the provision of information which could have a negative impact on its investigation or litigation of any matter.
- I would also request on behalf of the RTC that appropriate safeguards be implemented after consultation with the staff of the Committee to protect the confidentiality of information and to preserve the privileged nature of any information which might be disclosed.
- Mr. Chairman, the RTC will respond as to its position on this request expeditiously after consultation with the Independent Counsel and the Justice Department.

Question:

Has the RTC applied this policy for all document requests by individual Members of Congress?

Answer:

- The RTC's policy with respect to this type of matter is a non-partisan one. The RTC has treated Democrats similarly to Republicans. The RTC has previously provided privileged information to Congressional Committees with safeguards such as a promise of confidentiality or under threat of subpoena which protects the agency from a claim that its privileges have been waived by disclosure to Congress. For example, the RTC has disclosed:

    - Information regarding Southwest Savings litigation requested by a majority member of the Senate Banking Committee. The information was disclosed only after the RTC received a [written] promise of confidentiality from the [Committee];

    - Information regarding HomeFed requested by the majority of the House Banking Committee. The Chairman of the Committee, in writing threatened to issue a subpoena for the requested material;

    - Information protected by the Privacy Act requested by a majority member of the House Subcommittee on Civil Service (Rep. Schroeder) was denied originally and released only after a promise of confidentiality by the Chairman of the Subcommittee.

- In the absence of such safeguards, the RTC would have to consider all its options in order to avoid jeopardizing its statutory obligations.

17211

Question:

How many criminal referrals were made by the RTC relating to Madison? When were they made? Could you provide a copy of these referrals to the committee?

Answer:

- It is the policy of the RTC not to discuss criminal referrals on an institution specific basis;
  - All questions concerning criminal investigations should be directed to the Justice Department, and in the case of Madison Guaranty to Independent Counsel Robert Fiske.

Question:

What are the RTC processes for criminal referrals? What were the RTC processes which led to the decision in October to refer this to the Justice Department?

Answer: **(ELLEN TO TAKE THIS QUESTION)**

- It is standard RTC practice to review institutions for criminal activity sometimes even after the statute of limitations on civil claims has expired and to make criminal referrals where warranted. Those reviews are conducted in RTC field offices and referrals are made directly from the field offices to the appropriate U.S. Attorney's office.
- It is the policy of RTC Investigations to make criminal referrals where there is a reasonable basis to believe that a crime has been attempted or committed.

Question:

Were you told what names would be included in the referral?

Answer:

- Yes, I was told.

Question:

Who were they?

Answer:

- I cannot comment.

Question:

Who was involved in that decision?

Answer:

- I am not sure. Normally, referrals are made by the Criminal Coordinator working for RTC's Investigations unit in the field office.

17214

Question:

When did the RTC first turn its attention to Madison?

Answer: **(ELLEN TO TAKE THIS QUESTION)**

- The RTC became responsible for resolving Madison's affairs on August 9, 1989.
- Madison Guaranty Savings was declared insolvent and placed in conservatorship on February 28, 1989.
- The Federal Home Loan Bank appointed the Federal Savings and Loan Insurance Corporation ("FSLIC") to serve as Madison's conservator.
- By agreement between the FSLIC and the Federal Deposit Insurance Corporation ("FDIC"), the FDIC immediately became the Managing Agent for the Madison conservatorship.
- The FDIC managed the conservatorship until ("FIRREA") was signed into law on August 9, 1989.
- The FDIC remained the managing agent for the RTC until the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 became effective in December of 1991.

17215

Question:

Who in the RTC was involved at the beginning?

Answer:

- I don't know.

17216

Question:

- When did the Madison matter first come to the attention of the RTC's Washington office?

Answer:

- I don't know.

17217

Question:

Why wasn't a claim pursued before the statute of limitations lapsed?

Answer: **(ELLEN TO TAKE THIS QUESTION)**

- **The original statute of limitations for director and officer and other professional liability claims was not "permitted to lapse".**
- **The statutes of limitations for PLS matters in thrifts under RTC control were not permitted to expire without either filing appropriate civil actions, settling claims prior to filing or reaching a decision to close investigations because the dual criteria of viable and cost-effective claims could not be met.**
- **The decision not to pursue claims against former officers, directors, attorneys and appraisers for Madison was based on these factors.**
- **Madison filed suit against Frost and Co., its accountants, in 1988, and the government continued to pursue these claims. In 1991, the RTC settled with Frost.**

Question:

Who made the decision to permit the original statute of limitations to expire?

Answer: **(ELLEN TO TAKE THIS QUESTION)**

- The investigations into all Madison professional liability matters, other than the audit failure case against Frost & Co., were closed by officials in the FDIC Legal Division responsible for RTC matters and by officials in the RTC Office of Investigations. (dual sign offs)

- The settlement of the audit failure case was approved by officials in the FDIC Legal Division responsible for RTC matters and by business officials of the RTC.

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Question:

Why has it been almost five years since Madison failed and no civil action has been taken while many criminal referrals have been made?

Answer: **(ELLEN TO TAKE THIS QUESTION)**

- While an in-depth response concerning the actions taken by he RTC in connection with Madison must await a later date, let me provide you with a review of significant events:
    - The original statute of limitations for Madison civil claims expired in early 1992;
    - Before that date, the FDIC and subsequently the RTC pursued a civil claim against Madison's former auditors. This case was originally filed by Madison (the institution) prior to its failure and was successfully settled. Certain other litigation was also pursued.
- Despite the fact the statute of limitations for civil claims had expired in early 1992, the RTC has continued to assess Madison, as well as other institutions, as to whether criminal referrals should be made since the statute of limitations period for criminal charges is longer.
- With the enactment of the RTC Completion Act in December 1993, the statute of limitations was renewed with respect to a limited class of civil actions.
- The statute of limitations with respect to those civil actions extended in December 1993 was again extended as part of the recently enacted California Earthquake Relief Act. The statute of limitations expires on December 31, 1995.
- The review of whether any civil claims relating to Madison as well as other institutions are sound and cost effective is underway.

17220

Question:

Has the RTC ever uncovered any ties between Madison and Whitewater, or Madison and the Clintons?

Answer:

- Since these matters are under investigation, it would be inappropriate to comment on them at this time. Discussing specific information could materially impair both the civil and criminal investigations which are underway.

17221

Question:

Had Congress not just extended these limitations, what would the RTC have done on Madison before the February 28 deadline?

Answer:

- Although it would not have been easy to complete this investigation in the time originally allotted in the RTC Completion Act, RTC was prepared to take the necessary steps to do the best job possible.

17222

Question:

What is the RTC doing at this very moment to reach a decision on a civil claim?

Answer:

- Beginning in January 1994, the RTC commenced a new investigation of the claims revived by the Completion Act.
- It assembled a team of experienced in-house attorneys supervised by a Senior Counsel and Legal Division managers.
- Further, we hired outside counsel to assist us.
- We expect to make decisions about pursuing revived claims during 1994.

17223

Question:

Who at the RTC is doing that work?

Answer:

- A team of in-house attorneys supervised by a Senior Counsel and Legal Division managers, as well as outside counsel.

Question:

Who is the outside counsel?

Answer:

- Pillsbury, Madison & Sutro.

17224

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Question:

When will a decision be reached?

Answer:

- I have been advised that the staff anticipates that decisions on pursuing specific claims should be made in 1994.

17225

Question:

If the RTC were to file a claim in court against the Clintons, how would that work? What would the RTC seek, etc.?

Answer:

- **The RTC would follow its normal procedures if it decides to file a claim against anyone. I have instructed the RTC to handle this matter like it would any other.**

Question:

In light of the problems with RTC PLS, why do you think that it can adequately investigate the Madison claims?

Answer:

- As I said in my testimony, we have made great progress in addressing the problems which have been identified with RTC PLS.
- We have greatly strengthened our management team with the recent appointment of Ellen Kulka, a very knowledgeable attorney in PLS matters, as the General Counsel of the agency.
- Many of the problems with PLS had to do with inadequate numbers of experienced staff, and I have taken steps to address these problems. RTC PLS now has the largest number of attorneys in its history, and I recently approved the creation of 4 new managerial positions to improve oversight of cases and investigations.
- The naming of an Assistant General Counsel for Professional Liability, pursuant to the RTC Completion Act, with responsibility for supervising both legal staff and investigative personnel in this area, will also improve coordination between these units.

Question:

Why did the Clinton Administration oppose a retroactive extension of the statue of limitations in the RTC Completion Act?

Answer:

- The Administration did not oppose the RTC Completion Act's extension of the statute of limitations.
- The Administration's proposed legislation to fund the completion of the RTC in March 1993 did not contain a provision to extend the statute of limitations.
- During Congressional consideration of provisions to be included in this legislation, Treasury was asked for its views on an extension of the statute of limitations. While we did not support the provision, we did not express any opposition.

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Question:

Did Madison Guaranty matters enter into that decision?

Answer:

- No.

Question:

- What is the RTC doing to ensure that claims for which the statute of limitations has been extended are being investigated?

Answer:

- The RTC legal staff is in the process of establishing procedures that will identify potential cost effective claims that have been extended by the RTC Completion Act. Such procedures will include review of prior RTC actions and, in some cases, additional investigations. Since over 400 institutions are involved, the process will likely take some time and resources to complete.

17230

Question:

When did Madison Guaranty collapse?

Answer: **(ELLEN TO TAKE THIS QUESTION)**

- **Madison Guaranty Savings was declared insolvent and placed in conservatorship on February 28, 1989.**
- **The Federal Home Loan Bank appointed the Federal Savings and Loan Insurance Corporation ("FSLIC") to serve as Madison's conservator.**
- **By agreement between the FSLIC and the Federal Deposit Insurance Corporation ("FDIC"), the FDIC immediately became the Managing Agent for the Madison conservatorship.**
- **The FDIC managed the conservatorship until ("FIRREA") was signed into law on August 9, 1989.**
- **The FDIC remained the managing agent for the RTC until the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 became effective in December of 1991.**

17231

Question:

Who made the decision to put Madison into conservatorship?

Answer:

- The Federal Home Loan Bank Board.

17232

Question:

Tell us about the federal oversight of Madison before the collapse.

Answer:

Madison was regulated by the Federal Home Loan Bank Board, the predecessor agency to the Office of Thrift Supervision. I am not in a position to answer questions about regulation of Madison before its collapse.

17233

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Question:

Why was McDougal permitted to loot the institution the way he did?

Answer:

I have no specific information about the operation of Madison in the 1980's.

17234

Question:

Wasn't that a dereliction of oversight? Who was responsible?

Answer:

- The RTC does not and did not regulate financial institutions and therefore I am not in a position to respond.

17235

Question:

- Do you think that the President and/or Mrs. Clinton have broken any laws in this matter?

Answer:

- In my role as Interim CEO of the RTC, it is inappropriate for me to speculate.

17236

Question:

Have they acted in an ethical fashion?

Answer:

- As the interim CEO of the RTC I just cannot comment on this.

17237

Question:

Aren't there, at the very least, appearances of impropriety on their part?

Answer:

- As Interim CEO of the RTC, it would be most inappropriate for me to comment.

17238

Question:

What should be done if it is ultimately determined that laws were broken?

Answer:

- If the RTC's investigation determines that an individual or entity may have committed civil fraud, or intentional wrongdoing which resulted in substantial loss to the institution or unjust enrichment, then the RTC should do what is appropriate to recover from any such individual.
- As usual, any decision to seek a recovery must take into account the strength of the RTC's case and the cost effectiveness of any proposed litigation.

17239

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Question:

Has anyone at the RTC spoken to the President's attorney in this matter? Who has had that conversation?

Answer:

- I do not know.

17240

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Question:

Will the Oversight Board play any role at all in RTC decisions on Madison?

Answer:

- No.

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STATEMENT ON WASHINGTON, D.C. INVESTIGATIONS

The Washington, D.C. Office of the Independent Counsel has completed two separate investigations:

(1) An investigation to determine whether the cause of the death of Vincent W. Foster, Jr. was a suicide or a homicide, and if it was a suicide, whether any matter related to the Clintons' involvement in the Whitewater Development Company ("Whitewater"), Madison Guaranty Savings and Loan ("Madison Guaranty") or Capital Management Services ("CMS") played any role in his death; and

(2) An investigation to determine whether a criminal prosecution should be brought against anyone for obstruction of justice or a violation of any other federal statute for conduct arising out of a series of meetings and other contacts between White House and Treasury Department officials from September 1993 through March 1994.

A third investigation, to determine whether a criminal prosecution should be brought against anyone for obstruction of justice or a violation of any other federal statute for conduct involving the handling of Mr. Foster's documents in the White House immediately following his death, is in its final stages and should be completed shortly.

We announce today the results of the two completed investigations. We are satisfied that all of the issues involved in these investigations have been fully and thoroughly investigated. In total, attorneys from this Office and agents of the Federal Bureau of Investigation ("FBI") questioned 188 persons and reviewed and analyzed thousands of documents. Other investigative steps were also undertaken.

I am extremely grateful for the commitment and effort of the lawyers on my staff in Washington; Roderick C. Lankler, Mark J. Stein and Carl J. Stich, Jr., and the FBI agents who have worked with us, which has enabled us to conduct and complete these two investigations in a period of less than four months.

The Foster Death Investigation

At this time, we are issuing a complete report on the death of Vincent Foster. This report concludes that on July 20, 1993, Mr. Foster committed suicide in Fort Marcy Park, Fairfax County, Virginia. The report lists a number of factors that may have contributed to his suicide, and finds no evidence that matters relating to Whitewater, Madison Guaranty or CMS played any role in his death. The investigation into Mr. Foster's death was not a grand jury investigation. It consisted of interviews by attorneys and FBI agents working with this Office, and of extensive forensic and pathological laboratory analyses. Accordingly, there are no grand jury secrecy restrictions on the public issuance of a full report, and we are making public such a report at this time.[*] We

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[*] Rule 6(e) of the Federal Rules of Criminal Procedure provides, in relevant part, "(2) A grand juror, an interpreter, a stenographer, an operator of a recording device, a typist who transcribes recorded testimony, an attorney for the government, or any person to whom disclosure is made [pursuant to a specified exception] shall not disclose matters occurring before the grand jury, except as otherwise provided for in these rules. . . . A

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will submit a copy of this report to the division of the Court of Appeals for the District of Columbia referred to in Title 28, United States Code, Section 49, as part of the report required by Title 28, Code of Federal Regulations, Section 600.2(b)(1).

White House/Treasury Contacts Investigation

On February 24, 1994 Deputy Treasury Secretary Roger Altman disclosed in testimony before the Senate Banking Committee that he and Treasury General Counsel Jean Hanson had met with members of the White House staff on the subject of the Resolution Trust Corporation's ("RTC's") investigation of Madison Guaranty Savings & Loan ("Madison Guaranty"). In the days and weeks that followed that testimony, disclosures were made about additional meetings and contacts that occurred from September 1993 through February 1994 between Treasury representatives and White House staff on the subject of Madison Guaranty. Following these disclosures, Members of Congress, the press and other individuals raised questions about what occurred at these meetings and whether there was any attempt by members of the Administration to improperly influence the RTC investigation.

As a result of these disclosures and the issues that arose from them, this Office conducted a grand jury investigation to determine whether any Government official did anything during or following these contacts that amounted to obstruction of justice

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knowing violation of Rule 6 may be punished as a contempt of court."

under the federal criminal laws.

The purpose of this investigation was to determine whether the evidence established that any of those contacts, viewed individually or collectively, amounted to a violation of law by anyone involved. A total of more than twenty different contacts, either face-to-face meetings or telephone conversations, were investigated. The investigation focused on whether in the course of any of these contacts, any individual obstructed justice, attempted to obstruct justice, or conspired with others to obstruct justice, as defined in Title 18, United States Code, Section 1505. That section provides, in pertinent part:

> Whoever corruptly . . . influences, obstructs, or impedes or endeavors to influence, obstruct, or impede the due and proper administration of the law under which any pending proceeding is being had before any department or agency of the United States . . . [s]hall be fined not more than $5,000 or imprisoned not more than five years, or both.

After a review of all the evidence, we have concluded that the evidence is insufficient to establish that anyone within the White House or the Department of the Treasury acted with the intent to corruptly influence an RTC investigation. Therefore, the evidence of the events surrounding the contacts between the White House and the Treasury Department does not justify the prosecution of anyone for a violation of Section 1505. We have also concluded that the evidence does not justify a criminal prosecution for violation of any other federal statute.

Because this investigation was conducted almost entirely through the use of a federal grand jury sitting in the District of

Columbia, we are precluded by Rule 6(e) of the Federal Rules of Criminal Procedure from publicly disclosing anything more than the results of the investigation. We will submit a full report of this investigation to the Division of the Court of Appeals for the District of Columbia referred to in Title 28, United States Code, Section 49, pursuant to Title 28, Code of Federal Regulations, Section 600.2(b)(1).

In reaching this conclusion, this Office is not determining anything other than that the evidence does not justify a criminal prosecution. We express no opinion on the propriety of these meetings or whether anything that occurred at these meetings constitutes a breach of ethical rules or standards. Prior to the issuance of our grand jury subpoenas, Secretary of the Treasury Lloyd M. Bentsen, Jr. had asked the Office of Government Ethics ("OGE") to conduct an investigation into these meetings. That investigation was suspended, at our request, when we began our investigation. We have advised Secretary Bentsen that we have completed our investigation, and we understand that the OGE investigation will now go forward.

Robert B. Fiske

ROBERT B. FISKE, JR.
Independent Counsel

June 30, 1994

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